

CR15-00707-PHX-SRB JURY TRIAL-DAY #1 2-16-16

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

United States of America,)	
)	
plaintiff.)	APPEAL
)	CR15-00707-PHX-SRB
vs.)	Phoenix, Arizona
)	February 16, 2016
Abdul Malik Abdul Kareem,)	9:12 a.m.
)	
Defendant.)	
)	
)	

BEFORE: THE HONORABLE SUSAN R. BOLTON, JUDGE
REPORTER'S TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY #1
(Pages 1 through 151, Inclusive.)

APPEARANCES:

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P R O C E E D I N G S

(Called to the order of court at 9:12 a.m.)

COURT/COUNSEL DISCUSS JURY QUESTIONNAIRES/STRIKES:

THE CLERK: Criminal case 15-707. *United States of America v. Abdul Malik Abdul Kareem*. Time set for jury trial.

MR. KOEHLER: Good morning, Your Honor. Joseph Koehler and Kristen Brook for the United States.

MR. MAYNARD: Good morning, Your Honor. Dan Maynard and Mary Plomin for Mr. Abdul Malik Abdul Kareem who is present and in the courtroom.

THE COURT: Please sit down.

I just wanted to touch base with you on where we are in the process this morning. The prospective jurors, I believe there's 144 of them, have not yet begun to answer the questionnaire. They have not yet been sworn. They are still being given their orientation and being randomized and given their juror numbers. And as soon as they are ready, Maureen will go down and administer the oath and hand out the questionnaires.

What we anticipate doing then is that bringing the answered questionnaires up in batches, not waiting until everyone is complete, because certainly some people will fill them out much quicker than others. And so when we get 20 of them, we will make copies for each of you and we will begin separately going through them.

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1 I, in particular, will be focusing on the first four
2 questions when I go through them. I'm sure that the answers
3 to other questions are very significant to all of you, but
4 what my primary interest with this questionnaire is to be able
5 to excuse anyone who answers questions 1, 2, 3 or 4 in such a
6 way that it is obvious that they need to be excused.

7 There may be other questions beyond that that are
8 obvious, but my initial review will focus on that. And so
9 that hopefully, we will be voir diring only jurors who will be
10 able to serve because they are available and physically
11 healthy and aren't friends with any of the witnesses.

12 The other thing that I wanted to go over with you is
13 some of the proposed oral voir dire that's been submitted.
14 And first, I'm going to start with the government's, because
15 the defendant's is predominantly duplicate of the government's
16 with some additional questions.

17 So the very first question, this voir dire
18 anticipates -- this proposed voir dire is written as if it
19 were going to have a written answer. And the individual voir
20 dire that is done by me, typically, is followup questions to
21 people that have "yes" answers to any of the questions that
22 were asked of the prospective jury panel as a whole.

23 And then we ask them at some point in the proceedings
24 to answer the standard questions which basically is marital
25 status, what that individual does for a living, what their

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1 spouse does for a living, if any, whether they have any
2 children under the age of 18, and whether they have ever
3 served in the military, and if so, what branch.

4 So marital status is covered, but age, place of
5 birth, and how long they have lived in Arizona is not covered.
6 And while it is true that we could have prospective jurors who
7 were born outside the United States, one of the things that we
8 do know is that all of the prospective jurors are citizens of
9 the United States.

10 So my question to the government is why do you want
11 this additional information? What purpose does it serve?
12 You're going to see these people, so age is -- well, you can
13 tell if they're young or old or somewhere in between.

14 MR. KOEHLER: To the extent that the Court's routine
15 voir dire covers that, we have no objection.

16 THE COURT: It doesn't cover age.

17 MR. KOEHLER: Right. Well, we have no objection to
18 just sticking with the Court's routine.

19 THE COURT: The routine. Okay.

20 Do you agree, Mr. Maynard?

21 MR. MAYNARD: I do.

22 THE COURT: Okay. So we'll delete that one.

23 The second one is: What other jobs have you held in
24 the last ten years? Why is that -- we're going to find out
25 their occupation, what they do for a living.

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1 Sometimes if somebody says something that's very
2 generic, I might ask a followup as they're answering the
3 question and I always follow up if they say they're retired
4 and ask what they did before they were retired.

5 MR. KOEHLER: That works for us, Your Honor.

6 THE COURT: Okay. Agreed?

7 MR. MAYNARD: That's fine.

8 THE COURT: Similarly, No. 4, I believe there's a
9 specific question -- and I said I was going to go through the
10 government's first, but now I'm going to go into
11 Mr. Maynard's.

12 Mr. Maynard specifically wanted me to ask question
13 No. 12 which is asking about specific occupations. And my
14 standard voir dire -- and I think also in some of this -- is
15 the law and law enforcement.

16 Is there some reason why we need to know highest
17 formal education and any degrees with the field involved?

18 MR. MAYNARD: Your Honor, the categories that I
19 listed there, I think are relevant --

20 THE COURT: No. No. I agree your question is
21 relevant. Now I'm going back and asking the government why
22 they want a more generic.

23 MR. MAYNARD: Okay.

24 THE COURT: Why they want every juror to tell us
25 whether they finished high school or have a GED or have a

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1 Ph.D.

2 MR. KOEHLER: I think it just helps paint an overall
3 picture of the person, Your Honor, and that is, how far they
4 have gone with their education. That's something that's of
5 interest, I think, to both sides to know how well educated our
6 jurors are.

7 THE COURT: Okay. As I said, there will be a
8 question about whether that individual has served in the
9 military, and if so, what branch.

10 You have as question No. 6 a broader question about
11 whether the person's spouse, children, or grandchildren ever
12 served in the military.

13 MR. KOEHLER: That's a joint question that we
14 developed before we changed that around and we incorporated
15 some of the suggestions from the defense. I think the person
16 or an immediate member of their family, given the nature of
17 this case, inquiring into that is something I think the
18 defense would definitely want to know.

19 MR. MAYNARD: I agree.

20 THE COURT: Okay. No. 7 is similar to the question
21 in No. 7 in the questionnaire.

22 Your No. 7 says: Have you ever lived outside the
23 United States, and if so, where and when?

24 Question 7 actually asks whether the individual has
25 ever visited or lived in the Middle East, Africa, or any

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1 predominant Muslim country or region.

2 MR. KOEHLER: I think it's covered, so that's fine.

3 THE COURT: Agreed?

4 MR. MAYNARD: Yes.

5 THE COURT: Thank you, Mr. Maynard.

6 Okay. Let me turn to Mr. Maynard's -- your questions
7 1 through 9 are duplicative of what's in the government's, so
8 I won't focus on those.

9 And I think that you assured me the other day that
10 question No. 10 is relevant to some evidence that might come
11 in during the trial.

12 MR. MAYNARD: I believe so, yes.

13 THE COURT: No. 11. I believe your No. 11 is
14 duplicative of No. 15 in the questionnaire that asks: Do you
15 have any particular religious or moral opinions about the
16 consumption of alcohol?"

17 So can we eliminate No. 11?

18 MR. MAYNARD: Yes.

19 MR. KOEHLER: Your Honor, we flagged the issue of
20 sexual orientation in our trial memo. And we will -- we just
21 want to draw the Court's attention to that that we will oppose
22 the admission of any evidence about that subject unless it is
23 directly relevant to the nature of the relationships in the
24 conspiracy itself that we have charged.

25 THE COURT: But that doesn't -- since I haven't ruled

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1 on that objection yet, I still need to ask the question in
2 voir dire.

3 MR. KOEHLER: And that's fine. I just wanted to flag
4 that as an ongoing issue.

5 THE COURT: And, Mr. Maynard, your question No. 13 is
6 also covered in the questionnaire at 18.

7 MR. MAYNARD: I'll withdraw it.

8 THE COURT: Thank you.

9 I think those are all the questions I had about the
10 proposed voir dire.

11 Let me turn just to some very brief -- very brief,
12 two words that I would suggest changing in the joint proposed
13 statement of the case.

14 On page 2, line 6, it says "to provide material
15 support in the form of property, currency, service" and then
16 it goes on.

17 Can we say "money"?

18 MR. MAYNARD: That's fine.

19 MR. KOEHLER: That sounds fine. We actually had
20 consulted with our folks in DC and came up with a little bit
21 more narrow and generic form of that particular paragraph.

22 THE COURT: Oh. You have a new joint statement of
23 the case?

24 MR. KOEHLER: We have a new paragraph that simplifies
25 that a little bit that we could get over to the Court later

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1 this morning.

2 THE COURT: Has Mr. Maynard seen it?

3 MR. KOEHLER: No. We need to show it to him as well.

4 THE COURT: Yes, because it's a joint statement of
5 the case.

6 MR. KOEHLER: It's just simpler.

7 THE COURT: Good. So is money -- does "currency"
8 turn into "money" in your new revised statement?

9 MR. KOEHLER: I think "currency" disappears all
10 together.

11 THE COURT: Even better.

12 And the only other one is really minor, which is on
13 page 3, line 2, it says "was prohibited in possessing" and I
14 wanted to say "was prohibited from possessing."

15 MR. KOEHLER: No objection.

16 THE COURT: I didn't think so.

17 Okay. Anything else that we need to discuss before
18 we start reviewing -- oh. I forgot.

19 One last thing and we may have already covered this.
20 So we're going to have the jurors return -- our target is to
21 have the jurors here at 1:00. And so what I anticipate doing
22 is that we're going to go through these questionnaires. I'm
23 going to focus on the first four questions. And then I'm
24 going to meet with you and propose people to be excused based
25 on the questionnaire answers.

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1 And then you can either agree on other answers and
2 propose other people that be excused based exclusively on
3 their questionnaires so that we, hopefully, limit the number
4 of jurors that are coming up to people that are realistically
5 part of the prospective jury panel.

6 So hopefully, we will be able to do that between
7 11:00 and 11:30.

8 MR. MAYNARD: Judge, did you want to talk about
9 peremptories and alternates and how that was going to be
10 selected?

11 THE COURT: Well, peremptories, I think, are pretty
12 simple. I think that the government gets 8 and you get 12.

13 MR. MAYNARD: Yes.

14 THE COURT: And we've agreed to 16 jurors, which
15 means we need 36 qualified jurors for you to exercise those
16 strikes.

17 And I did ask whether or not both sides would be
18 willing to stipulate to the jurors selected by lot as
19 alternates.

20 Does the government wish to so stipulate?

21 MR. KOEHLER: We would prefer by lot, yes, Your
22 Honor.

23 MR. MAYNARD: That's fine.

24 THE COURT: Okay. So that is a stipulation of
25 counsel. We will do that. And the preliminary instructions,

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1 which I'm going to give you --

2 Oh. I'll ask you the question right now because I
3 put it on as a question mark on the preliminary instructions
4 which should be available momentarily.

5 On the Count 5, Conspiracy to Provide Material
6 Support, does it require an overt act? Because the
7 instructions didn't have it in there.

8 MR. KOEHLER: It does not, Your Honor.

9 THE COURT: It does not. Okay. That answers the
10 question.

11 MR. KOEHLER: That's correct. The 2339(b) Conspiracy
12 does not include an overt act. So similar to the drug
13 statutes under the Supreme Court case of *Shabani*, no overt act
14 is required.

15 THE COURT: I just wanted to be sure we weren't --
16 because the other conspiracy does require an overt act and I
17 wanted to doublecheck with you on that.

18 The preliminary instructions that I'm proposing that
19 we give are simply the elements of the crimes charged.

20 As an example, we all know about the lengthy
21 follow-all definition of "conspiracy." I don't propose to
22 give it at this time, but simply the elements of each crime
23 without those definitions so that the jurors at least have a
24 general idea of what the government needs to prove for each of
25 the five counts.

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1 So I will have them to you in a few minutes to take
2 a look at while you're waiting to take a look at the answered
3 questionnaires.

4 Is there anything else then, Mr. Koehler?

5 MR. KOEHLER: There are three issues.

6 THE COURT: Okay.

7 MR. KOEHLER: The first one is the government has a
8 few witnesses that will testify about different search scenes
9 and different parts of the case. And we would propose to
10 split their testimony.

11 One example is Robert Meshinsky is one of the CART
12 examiners and we intend to present, as you recall, the 2012
13 search at the home of Abubaker Ahmed that came up in the
14 motion to suppress.

15 We intend to present that part of the case, earlier,
16 about a week before we go into the devices that were recovered
17 from Simpson and Soofi's apartment as well as Mr. Kareem's
18 apartment.

19 So we would propose for him, and one or two other
20 witnesses, to have them testify about that specific issue.
21 And Mr. Maynard would be welcome to cross them at that time or
22 cross them later if he wanted to consolidate it all.

23 But in terms of direct testimony, we would prefer to
24 split that so that it makes more sense in terms of a time line
25 of the case.

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1 THE COURT: So will he be offering substantive
2 evidence or just process evidence, observations of -- I mean,
3 because -- I'm not recalling specifically right now, but I
4 know that at the time of the 2012 search, that one of the law
5 enforcement officers spoke to the defendant and one of them --
6 I mean, everybody that was present was spoken to and made some
7 statements.

8 Would those statements be coming in through Meshinsky
9 at that time?

10 MR. KOEHLER: No.

11 THE COURT: He was not the one that got the
12 statements?

13 MR. KOEHLER: That's correct.

14 THE COURT: So you just want to talk about in 2012 we
15 searched and we recovered these things and then here is what I
16 did with them?

17 MR. KOEHLER: Correct.

18 THE COURT: Which is turned them over to somebody
19 else to extract whatever information was on them.

20 MR. KOEHLER: Right. He was the one who received
21 them for extraction.

22 I believe he might have been on the scene of the
23 search as well, and so he would testify about the recovery of
24 specifically the Lenovo laptop, as well as the thumb drive
25 that was attached to the Lenovo laptop. And then we would

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1 present the evidence that that laptop came back into the
2 government's custody later on after having been returned to
3 the defendant.

4 THE COURT: Okay.

5 MR. KOEHLER: And then he would explain what he did
6 to extract those two particular devices.

7 And then Ms. Vaughan would testify about her --

8 THE COURT: But Ms. Vaughan is only going to testify
9 once, correct?

10 MR. KOEHLER: That would be the other witness that we
11 would propose to have testify twice. We could have some of
12 these witnesses on the stand for a very long period of time in
13 trying to differentiate between devices when the jury hasn't
14 even heard about the later searches.

15 I think it would make that very difficult.

16 THE COURT: It isn't my preferred way of proceeding.
17 I'm -- I'm following how it might be easier for the jury,
18 particularly early in the case when they're still getting
19 familiar with it with Meshinsky.

20 I'm a little concerned about the cross -- well, maybe
21 before I'm concerned, I should find out if Mr. Maynard is fine
22 with it. My thought was, you know, is this going to impact
23 his ability to effectively cross-examine?

24 And Meshinsky I kind of understand. Ms. Vaughan -- I
25 mean, talking about the extraction process and then talking

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1 about what was specifically extracted are two different --

2 I mean, if she's talking about what her process is,
3 it's very much like Meshinsky. If she's talking about what
4 was actually recovered and substantively showing as exhibits
5 what it was, that coming through her testimony in different
6 points in time I'm a little concerned about.

7 But then are you concerned, Mr. Maynard; because if
8 you're not, then I shouldn't be?

9 MR. MAYNARD: Oh, I'm always concerned, Your Honor.
10 And the problem I'm hearing and what I'm anticipating the
11 government is going to try to do is basically put the same
12 evidence on twice.

13 THE COURT: Well, that's not going to be allowed
14 because I never --

15 MR. MAYNARD: I hope not.

16 THE COURT: -- because I never allow duplicative
17 evidence.

18 MR. MAYNARD: I didn't figure you would. But I don't
19 have -- with Meshinsky it sounds to me like it's not a
20 problem. It's the process. I took a computer. I downloaded
21 these things. Yada yada yada.

22 THE COURT: Right.

23 MR. MAYNARD: The problem I'm anticipating is
24 Ms. Vaughan is going to come in with her knowledge, I guess,
25 is going to say:

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1 Back in 2012 I looked and here were these things that
2 I thought indicated that somebody might be radicalized or was
3 reading radical materials.

4 And then if she's going to come back and say I looked
5 at this same stuff or I looked at very similar things in 2015
6 and she's going to say the same thing, that's where I'm
7 getting the duplicate nature of this is from her testimony,
8 not from his. That bothers me. And I have just now heard
9 about it.

10 THE COURT: Okay. So it's "yes" on Meshinsky and
11 it's "we don't know yet" on Vaughan?

12 MR. KOEHLER: If I can elaborate a little bit on
13 Ms. Vaughan, what we would propose to do with her, I would
14 propose to have her testify that after the computer came back
15 into the government's custody, a new image had been performed.
16 And, of course, Meshinsky would be the witness for that. And
17 have her testify without elaborating on necessarily the
18 content of the documents, aside from establishing relevance,
19 that they were found on the computer, that they appeared
20 relevant to the investigation, and appeared connected to
21 radicalization.

22 And end it there and move to admit those documents
23 into evidence. And then recall Ms. Vaughan later to talk
24 about her searches of other devices.

25 And the reason why I think it's important to do it

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1 that way is to keep it straight in the jury's mind which sets
2 of devices we're talking about.

3 If we lay out everything that's in all the devices at
4 once through Ms. Vaughan and through other witnesses, what we
5 end up doing is just kind of jumbling all that together in a
6 way that might make it really hard to follow.

7 Whereas, if we space it out in time, they have time
8 to digest, okay, this is a computer that was found at this
9 point in time, this is a computer that was found at this
10 location, and so forth, and helps space it out in a way that
11 makes it easier for them to digest.

12 THE COURT: We may have to have Ms. Vaughan testify
13 first so that Mr. Maynard and I can see that there is no
14 problem with her coming back and testifying again because she
15 will be prepared to testify either all together or separately
16 on two occasions.

17 MR. KOEHLER: Okay.

18 THE COURT: Okay?

19 MR. KOEHLER: Thank you.

20 THE COURT: Anything else then, Mr. Maynard?

21 MR. MAYNARD: He said he had three things.

22 THE COURT: Oh. I'm sorry.

23 MR. KOEHLER: The next item is Mr. Maynard has filed
24 a motion to preclude the government's expert Evan Kohlmann
25 from testifying and he has requested a Daubert Hearing on that

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1 issue.

2 THE COURT: I saw the motion and that's all I can
3 say. I have seen it. I have not read it. Because I didn't
4 want to read it until I found out what the government's --
5 what the government's intentions were with respect to a
6 response.

7 Do you intend to respond in writing --

8 MR. KOEHLER: Yes.

9 THE COURT: -- orally or both?

10 MR. KOEHLER: We intend to respond in writing.

11 THE COURT: When?

12 MR. KOEHLER: Tomorrow.

13 THE COURT: Tomorrow? Okay.

14 MR. KOEHLER: This is certainly fairly late in the
15 game and we have Mr. --

16 THE COURT: But so was his disclosure.

17 MR. KOEHLER: Well, yes and no, Your Honor. We
18 disclosed his preliminary report a couple of weeks ago. And
19 the motion that Mr. Maynard filed in the case is remarkably
20 similar to motions that were filed seeking to preclude Mr.
21 Kohlmann in a case out of New York a few years ago.

22 THE COURT: I'm guessing that's not a coincidence.

23 MR. KOEHLER: Certainly not. So my point is it's
24 something that Mr. Maynard was likely aware of in terms of Mr.
25 Kohlmann's background and expertise and perhaps could have

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1 been flagged a little sooner.

2 THE COURT: And when do you intend -- I know you were
3 intending to have Mr. Kohlmann testify fairly early.

4 MR. KOEHLER: Yes. Thursday afternoon. Mr. Kohlmann
5 is unavailable all week next week, so.

6 THE COURT: What about the week after that? We're
7 here for a long time.

8 MR. KOEHLER: It puts us on the horns of a dilemma
9 because of travel not only for him but for other witnesses.
10 And it's making things a little bit difficult from a
11 logistical standpoint.

12 THE COURT: Well, you know, we're just going to have
13 to deal with it as best we can because, as I said, I didn't
14 read it because I like to read it with the Response as well.

15 MR. KOEHLER: Certainly.

16 THE COURT: So that I have a sense of -- because
17 whenever you read one side, it always sounds eminently
18 reasonable until you read the other side's.

19 MR. KOEHLER: What I think we would propose to do,
20 Your Honor, is to proffer through our response and verbally to
21 the extent we need to answer questions from the Court, what it
22 is that we intend to present through Mr. Kohlmann and the
23 information the Court needs to at least make a preliminary
24 ruling.

25 THE COURT: Well, doesn't his disclosure tell me

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1 that?

2 MR. KOEHLER: We believe so, Your Honor.

3 THE COURT: Is that one of the many things that's in
4 that thick --

5 MR. KOEHLER: It's attached as an exhibit to the
6 motion, yes.

7 THE COURT: Okay.

8 MR. KOEHLER: And so moving past that, what we would
9 propose to do is have at least a preliminary ruling on
10 admissibility under Daubert and then proceed with Mr.
11 Kohlmann's testimony, assuming the ruling is that he should be
12 allowed to testify.

13 And then at the conclusion of the foundational
14 section of his testimony, the Court would be in a position to
15 judge fully whether the government's proffer has been accurate
16 and decide, ultimately, whether to allow the substantive part
17 of his expert testimony to come in.

18 THE COURT: So you're suggesting because of the
19 timing that I do read Mr. Maynard's motion before I have a
20 chance to hear any response from you?

21 MR. KOEHLER: I don't know how quickly the Court will
22 move through both the motion and the response. But if you
23 think it would be necessary to do that in order to arrive at a
24 preliminary ruling before Thursday morning, we would certainly
25 welcome that.

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1 THE COURT: Well, I will take a look at it while
2 we're waiting for the questionnaires. At the present time I
3 really can't comment one way or the other on whether or not I
4 will be able to follow the process you're suggesting or not.

5 And it might put you on the horns of a dilemma, but
6 if that's what happens, then we'll just have to deal with it.

7 MR. KOEHLER: We understand.

8 MR. MAYNARD: The government is the one that brought
9 this bull in here that has horns. The problem is --

10 THE COURT: Well, Mr. Maynard, I can't -- I'm not
11 going to comment on his process. And I don't -- I'm going to
12 read it and then we'll see where we are.

13 MR. MAYNARD: Well, here's the problem. I just want
14 to make sure the Court is clear.

15 He just said that we got the report several weeks
16 ago. We didn't. We got it Monday at 10:30 so --

17 THE COURT: A.m. or p.m.?

18 MR. MAYNARD: P.m. P.m. I was in bed. I got it the
19 next morning.

20 I mean, so technically, it came into my office at
21 10:30. I didn't see it till the next morning around 5:30 or
22 6:00. Yes.

23 I'm parroting a motion that I got from another lawyer
24 and I filed it on Friday. Well, the reason I had to wait till
25 Friday was, one, I had to read the motion and we had jury

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1 instructions and everything else to do.

2 But secondly, the government had told me this was
3 only a draft motion, a preliminary. I kept waiting thinking
4 the government was going to give me Mr. Kohlmann's final
5 report.

6 I still don't have his final report. I was told by
7 the government as late as Thursday that they were going to
8 give me a final report in the next day or two. I kept waiting
9 for it every day over the weekend.

10 THE COURT: So is the report from Monday, February
11 8th, the final report, Mr. Koehler?

12 MR. KOEHLER: The report from Monday -- I don't think
13 it was Monday, February 8th.

14 THE COURT: Well, if it was last Monday, that would
15 be when it was.

16 MR. MAYNARD: 10:30 at night p.m.

17 MR. KOEHLER: So there was the initial report that
18 was sent a week ago or a little over a week ago. That was the
19 initial draft.

20 The updated draft had more specific information about
21 it based on the facts that came out --

22 THE COURT: Okay. My question is the one last
23 Monday.

24 MR. KOEHLER: Yes.

25 THE COURT: February 8th. Is that the final report?

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1 MR. KOEHLER: No. That was not the final report.

2 THE COURT: Where is the -- when was the final report
3 delivered?

4 MR. KOEHLER: That should have been delivered
5 already. I'm not sure of the specific timing of it, Your
6 Honor.

7 THE COURT: Well, this could create even more
8 problems for your anticipated testimony this Thursday. If you
9 think it's been delivered and Mr. Maynard doesn't think it's
10 been delivered, you need to resolve that between the two of
11 you.

12 MR. KOEHLER: We will.

13 THE COURT: Okay. All right. Court is in recess.

14 MR. MAYNARD: Judge, I thought he said he had three
15 issues.

16 MR. KOEHLER: The third issue, that's the --

17 THE COURT: I thought you said two.

18 MR. MAYNARD: See how I'm helping out the government
19 here?

20 MR. KOEHLER: The Defense 403 request on photographs
21 from the case. The defense is -- has informed us that they
22 are going to object to photographs depicting beheadings and
23 depicting other gruesome acts of ISIS.

24 THE COURT: Well, until such time as somebody
25 provides me with the 403(b) evidence, I really can't comment

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1 on it because all I have is a notice of 403(b).

2 MR. KOEHLER: And there's one other issue that
3 relates to 403 that we have that we would ask for a sidebar to
4 discuss.

5 THE COURT: Is it part of your notice of 403?

6 MR. KOEHLER: This involves juvenile witnesses in the
7 case and witnesses that the defendant -- that the defense has
8 noticed on their witness list.

9 THE COURT: Well, we don't have to discuss that now.

10 MR. KOEHLER: Okay.

11 THE COURT: Because nobody is testifying today.

12 MR. KOEHLER: Okay.

13 THE COURT: Okay?

14 MR. KOEHLER: Thank you.

15 THE COURT: All right. Okay. We're at recess.

16 (Recess taken at 9:44 a.m.; resumed at 12:28 p.m.)

17 (Open court, no jury present.)

18 THE COURT: Thank you. Please sit down. The record
19 will show the presence of counsel and the defendant.

20 I want to go through the questionnaires that I have
21 identified as people who may be excused from downstairs and
22 not come up here. I'm going to try to go in numerical order.

23 The first one is No. 14. This person relates that he
24 or she cares for an elderly mother in the State of Maryland
25 which requires that the prospective juror fly home one to two

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1 times per month.

2 MR. KOEHLER: We have that juror flagged as well.

3 MR. MAYNARD: So do we.

4 THE COURT: Is there any objection to the Court
5 excusing 14?

6 MR. KOEHLER: No.

7 MR. MAYNARD: None.

8 THE COURT: 14 is excused. And I'm going to let you
9 keep track of them, Maureen.

10 The next one I have is No. 17 who said: I would
11 prefer to spend my vacation on vacation, not here for this.

12 MR. KOEHLER: They don't want to be part of our
13 trial?

14 THE COURT: I can't hear you, Mr. Koehler.

15 MR. KOEHLER: Somebody doesn't want to be part of our
16 trial?

17 THE COURT: And this is somebody I would be happy to
18 inquire further. But there was something about the tone of
19 this answer that I thought I would bring it to your attention
20 to see if you had any objection to excusing 17.

21 MR. MAYNARD: I do not.

22 MR. KOEHLER: Nor do we.

23 THE COURT: 17 is excused.

24 Juror No. 24 -- I'm sorry. Not 24 -- 30. I have a
25 bunch of other flags but they're not automatic excusals.

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1 This person writes: My four-year-old is known to get
2 sick a lot so I can miss some dates. And also indicated a
3 hearing problem and medication that makes it difficult to
4 concentrate including Klonopin and Activia perhaps.

5 Do you have any objection to the Court excusing No.
6 30?

7 MR. KOEHLER: No, Your Honor.

8 MR. MAYNARD: No, Your Honor.

9 THE COURT: 30 is excused.

10 No. 35. 35 writes that he or she is the primary
11 caregiver -- I think she is a "she." She is the primary
12 caregiver for her mother. They are in the process of joining
13 their households. Her mother is moving in with her and her
14 husband.

15 Is there any objection to the Court -- oh, she also
16 indicated that she had a health problem called dystonia.

17 Is there any objection to my excusing 35?

18 MR. KOEHLER: No, Your Honor.

19 MR. MAYNARD: No, Your Honor.

20 THE COURT: 35 is excused.

21 Next one I have is No. 60.

22 MR. MAYNARD: I'm sorry?

23 THE COURT: Six zero.

24 It says: My employer only pays two weeks of jury
25 duty and she couldn't pay her bills or he couldn't. I don't

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1 know if it's a "he" or "she."

2 Any objection to the Court excusing 60?

3 MR. KOEHLER: No, Your Honor. Thank you.

4 MR. MAYNARD: No, Your Honor.

5 THE COURT: 60 is excused.

6 No. 65. This individual wrote: Income and not
7 speaking good English. And then in question No. 3 indicated:
8 I don't speak good English.

9 Is there any objection to the Court excusing 65?

10 MR. KOEHLER: No, Your Honor.

11 MR. MAYNARD: No, Your Honor.

12 THE COURT: 65 is excused.

13 No. 70. This is the first one that's not a hardship
14 that I flagged. This individual wrote on the Explanation
15 Sheet: I do not fully understand the Muslim culture, but from
16 my very little experience around them and what I have seen on
17 the news, fear that I may be biased against them.

18 Is there any objection to excusing 70?

19 MR. MAYNARD: No, Your Honor.

20 MR. KOEHLER: May I have a moment?

21 Could you please read the response one more time on
22 the explanation?

23 THE COURT: I do not fully understand the Muslim
24 culture, but from my very little experience around them and
25 what I have seen on the news, fear that I may be biased

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1 against them.

2 Earlier the person wrote after the list of various
3 organizations it said:

4 What have you seen, read, or heard about them?

5 And it says: That they are radical Islamists that
6 behead those who disagree with them. Source: Fox News.

7 Those were the two concerning items, but it was the
8 statement that --

9 MR. KOEHLER: Yes. Although we certainly think that
10 the statement to the earlier question is probably rather well
11 documented and that the answer to the latter one is --

12 THE COURT: Well, I just want to know if you have any
13 objection to my excusing No. 70.

14 MR. KOEHLER: We will not object.

15 THE COURT: 70 is excused.

16 72 wrote that he works in sales. His paycheck
17 depends on a commission. And he has no time off available.

18 Is there any objection to my excusing 72?

19 MR. KOEHLER: No, Your Honor.

20 MR. MAYNARD: No, Your Honor.

21 THE COURT: 72 is excused.

22 No. 75. 75 writes: I have an appointment with VA
23 and take regular high blood pressure medication that makes me
24 sleepy and frequently using the bathroom.

25 Next wrote: I have a heart problem and take meds

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1 every day.

2 Is there any objection to excusing 75?

3 MR. KOEHLER: No, Your Honor.

4 MR. MAYNARD: No, Your Honor.

5 THE COURT: 75 is excused.

6 No. 77. I have a subpoena to show/testify in a
7 criminal case on February 23rd. I will be testifying as the
8 victim. And later in No. 16, I assume this is related, wrote:
9 2014 victim of hit and run.

10 MR. KOEHLER: No objection.

11 MR. MAYNARD: No objection.

12 THE COURT: 77 is excused.

13 No. 81 writes: I am the only source of income in my
14 household.

15 Let me just look at the juror list to see what --

16 No. 81 -- and also, I don't think you have this yet,
17 but I got it from the Jury Administrator. 81 reports her
18 occupation as insurance agent. So I assume that means
19 commissions.

20 We could inquire further, but I thought putting two
21 and two together that this person probably would be excused
22 for financial hardship.

23 Is there any objection?

24 MR. KOEHLER: No, Your Honor.

25 MR. MAYNARD: No, Your Honor.

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1 THE COURT: 81 is excused.

2 No. 84: My husband has Alzheimer's and I need to be
3 with him during the day. This individual does not list an
4 occupation, which may or may not be -- that doesn't
5 necessarily -- the difference between those who list and don't
6 list is whether they filled their questionnaire out online or
7 not.

8 So I don't know whether this person is employed or is
9 retired. But I thought that was -- that was good enough to
10 excuse her for hardship.

11 Is there any objection?

12 MR. KOEHLER: No, Your Honor.

13 MR. MAYNARD: No, Your Honor.

14 THE COURT: 84 is excused.

15 No. 90. This is an individual who does not believe
16 he or she has comprehension of the English language as
17 evidenced in No. 3.

18 Is there any objection to excusing 90?

19 MR. KOEHLER: No, Your Honor.

20 MR. MAYNARD: No, Your Honor.

21 THE COURT: 90 is excused.

22 No. 106. 106 answered questions 3 and 4 "no" but
23 then said "more information provided."

24 And in the explanation sheet wrote: In the interests
25 of being candid, I am bipolar, have Type 2 diabetes, high

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1 blood pressure, high cholesterol, and allergic allergies. I
2 am medicated daily for all conditions.

3 Is there any objection to 106 being excused?

4 MR. KOEHLER: No, Your Honor.

5 MR. MAYNARD: No, Your Honor.

6 THE COURT: 106 is excused.

7 No. 112 has three children; one, in school; one,
8 three years old; and one, five months. And said she would
9 need to hire a baby-sitter.

10 MR. KOEHLER: No objection, Your Honor.

11 THE COURT: Is there any objection to 112 being
12 excused, Mr. Maynard?

13 MR. MAYNARD: No, Your Honor.

14 THE COURT: 112 is excused.

15 No. 113. This is not a question relating to hardship
16 but says that list -- list several people, including himself,
17 in the field of national security or counterterrorism.

18 I'm not pushing for this, but I wanted to bring this
19 one to your attention.

20 MR. KOEHLER: We think that is one that should be
21 inquired further rather than excusing for cause.

22 THE COURT: No. 121. Even over your objection, I
23 might excuse this person who is recovering from the flu and a
24 chest cold because we don't want to lose everybody else to the
25 flu.

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1 So any objection to 121?

2 MR. KOEHLER: No objection.

3 MR. MAYNARD: No objection.

4 THE COURT: 121 is excused.

5 No. 123. Single mother. A five-week trial will be a
6 financial hardship for me. And in No. 3 wrote: I am diabetic
7 and also have rheumatoid arthritis in my hands, elbows, and
8 feet. I have very bad days.

9 Any objection to 123?

10 MR. KOEHLER: No, Your Honor.

11 MR. MAYNARD: No, Your Honor.

12 THE COURT: 123 is excused.

13 No. 124 has company out-of-state training class in --
14 I think it's -- well, in California, I think, March 7 through
15 10.

16 We could inquire further or I could excuse for cause.
17 I'm not -- I leave it to the two of you.

18 MR. KOEHLER: We have no objection, Your Honor.

19 MR. MAYNARD: I don't have any objection, Your Honor.

20 THE COURT: 124 is excused.

21 No. 127 writes: I have a business trip to Azerbaijan
22 scheduled for 12 March to 9 April.

23 Is there any objection to excusing this jury,
24 Mr. Koehler?

25 MR. KOEHLER: No, Your Honor.

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1 MR. MAYNARD: No, Your Honor.

2 THE COURT: 127 is excused.

3 No. 130 is a graduate student currently enrolled in
4 course work and conducting research and will be defending his
5 or her dissertation in March and also has teaching assistant
6 duties for undergraduate courses.

7 Is there any objection to 130 being excused?

8 MR. KOEHLER: No, Your Honor.

9 MR. MAYNARD: No, Your Honor.

10 THE COURT: 130 is also excused.

11 No. 136. This is not a hardship excuse but I wanted
12 to draw your specific attention to the answer to --

13 This person was a career military officer in the Air
14 Force and writes in answer to question 10: Have you had a
15 close friend or family member that's been the victim of
16 terrorism?

17 "Many brothers in arms affected."

18 I would propose 136 be excused for cause. Is there
19 any objection?

20 MR. KOEHLER: We think we should voir dire that
21 witness on that separately from the rest of the panel.

22 THE COURT: Well, I don't know about that, but if you
23 want me to inquire further, we can do that.

24 MR. KOEHLER: Yes. Please do that.

25 MR. MAYNARD: Yes.

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1 THE COURT: This one I'm not going to ask you about.
2 I'm just going to tell you that 138 will be excused.

3 I had the Juror Administrator look to see what his
4 age is. And his age is well over 70. And according to -- I
5 think it's the statute -- that while people who are 70 and
6 older are -- may serve, they may be excused at their request
7 from service. So I consider that a request to be excused.

8 So 138 is excused.

9 No. 142. This is on the explanation sheet as an
10 explanation of question No. 4. If the person is taking any
11 medication that affects concentration says that he or she is
12 taking hypertension and depression pills for an anxiety
13 disorder and high blood pressure.

14 Is there any objection to 142 being excused?

15 MR. KOEHLER: No objection.

16 MR. MAYNARD: No objection.

17 THE COURT: 142 is excused.

18 No. 143. 143 said the person has a health issue that
19 is incontinence.

20 I did inquire of the Jury Administrator about this
21 person's age, but this person is not over 70. This person is
22 69 years old. So, you know, this is one that we can inquire
23 more or excuse.

24 I would also point out once we're up in the 140's and
25 given the number that we have below 140 and only needing 36,

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1 that this person is likely not in the jury strike pool.

2 MR. KOEHLER: As I like to say: Close enough for
3 government work.

4 THE COURT: 143. No objection?

5 MR. MAYNARD: No objection.

6 THE COURT: 144 has appointments. Oh, mother has
7 Alzheimer's dementia. I am her caretaker.

8 Any objection to 144 being excused?

9 MR. MAYNARD: No objection.

10 MR. KOEHLER: No objection.

11 THE COURT: 144 is excused.

12 No. 143, well, this one says: Can't afford to pay my
13 bills if not at work. Public school educator which would be
14 inconsistent with what I know about the schools. But then
15 again, it's Juror No. 145.

16 Is there any objection to excusing 145?

17 MR. MAYNARD: Are you on 145 or 143?

18 THE COURT: 145.

19 MR. MAYNARD: Okay.

20 THE COURT: What happened to -- you know what. What
21 happened to 143?

22 MR. KOEHLER: Incontinence. Excused.

23 THE COURT: I thought that was -- no. No. You're
24 correct.

25 So 143 is excused. 144 is excused. This is 145.

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1 Any objection, Mr. Koehler?

2 MR. KOEHLER: None.

3 MR. MAYNARD: No, Your Honor.

4 THE COURT: Okay. 145 is excused.

5 No. 146 just found out she was pregnant and is
6 worried that morning sickness may ensue.

7 I suggest we excuse her and not run that risk.

8 MR. KOEHLER: No objection.

9 MR. MAYNARD: No objection.

10 THE COURT: 146 is excused.

11 And lastly No. 147 writes: I am a contingent
12 employee.

13 I don't know what that means.

14 And that person says: I would be terminated -- my
15 contract would be terminated and employment.

16 So I think maybe they meant I'm a contract employee
17 and may not be protected by the statute.

18 I would suggest that 147 be excused.

19 MR. KOEHLER: We have no objection, Your Honor.

20 MR. MAYNARD: No objection.

21 THE COURT: 147 is excused.

22 There was one -- there was one other person who I
23 asked the Juror Administrator when this person returned to
24 have her call her employer.

25 MR. KOEHLER: Is this juror No. 8?

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1 THE COURT: It's juror No. 5.

2 Juror No. 5 says: I'm the main provider for my kids.
3 This would interfere with my work schedule. Although it's an
4 excused absence, I don't know if I will be paid.

5 So I asked that she call while she's -- after she
6 gets back and find out.

7 Oh. And apparently she gets paid, so we don't have
8 to worry about No. 5 in that regard.

9 MR. KOEHLER: We had also flagged No. 8, Your Honor.
10 It was a similar one to another juror that mentioned they only
11 got paid for two weeks of juror duty.

12 THE COURT: Oh. Let me --

13 Oh. You know what. This one I was going to inquire
14 because the person says: Remainder will be unpaid or PTO.
15 Paid time off. However, I may have enough PTO to cover.

16 And so I thought that I would at least say you don't
17 have to do that, but if you are willing, wouldn't that be
18 generous. But that was the only reason I didn't ask that he
19 or she automatically be excused.

20 MR. KOEHLER: That sounds good to us, Your Honor.

21 THE COURT: Now, was -- oh, I know. There were a
22 couple who said they knew people.

23 The first one was No. 6. No. 6 says: I know
24 somebody named LeRoy Hoiland and I don't know if he is still
25 in the Coast Guard.

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1 MR. KOEHLER: We don't intend to call Mr. Hoiland and
2 we have offered a stipulation to the defense on foundation
3 that would obviate the need for his testimony. He was a
4 search team leader. We don't think he was actually the finder
5 at the particular residence. So we don't think he will
6 necessarily appear as a witness in the case.

7 THE COURT: Was he in the Coast Guard, do you know?

8 MR. KOEHLER: I don't know.

9 THE COURT: So you don't even know if this is the
10 same one?

11 MR. MAYNARD: I have no idea.

12 I have advised them that I will stipulate to the
13 foundation of all of the things from Garland, Texas.

14 So for them, they don't have to fly out --

15 THE COURT: Is that a Garland, Texas witness?

16 MR. KOEHLER: No. That's one of the houses. And the
17 defense had listed them as a witness for potential items from
18 one of the residences. And I had offered to stipulate to
19 foundation on the items from the residence that the defense
20 wants to put into evidence.

21 MR. MAYNARD: Yes.

22 THE COURT: So do we need this witness?

23 MR. MAYNARD: It doesn't sound like it.

24 THE COURT: Okay. So we don't have to worry about
25 that.

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1 And there was one person and I didn't -- who said
2 they knew -- worked with somebody that had been with DPS or
3 Child Protective Services.

4 MR. KOEHLER: DCS.

5 THE COURT: Is that person -- I know -- oh. There's
6 an "I know Amy Vaughan."

7 No. 54: I know Amy Vaughan but I'm unsure if this is
8 the same person on the list.

9 But I thought we would inquire further and find out
10 if her Amy Vaughan works for the FBI.

11 No. 71 writes: Melissa Bailey, former co-worker with
12 Department of Child Safety.

13 Is Melissa Bailey going to be called as a witness?

14 MR. MAYNARD: There is a good possibility she could
15 be.

16 THE COURT: Then we need to excuse 71.

17 MR. MAYNARD: Yes.

18 THE COURT: Is there any objection, Mr. Koehler?

19 MR. KOEHLER: No, Your Honor.

20 THE COURT: Mr. Maynard agrees.

21 MR. MAYNARD: No, Your Honor.

22 THE COURT: 71 is excused.

23 This person needs to be inquired further.

24 This is No. 80: I have an ex-co-worker named Mustafa
25 Hussan. I don't know if it's the same person.

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1 Is there anyone else that you wanted to suggest be
2 excused for cause based on written answers?

3 MR. MAYNARD: Yes. There were a couple, Your Honor.

4 No. 16.

5 THE COURT: Let me get No. 16. Well, at least I have
6 it in the pile that had Post-its on it.

7 MR. KOEHLER: What number?

8 THE COURT: Oh, yes. This person has a subpoena to
9 testify on March 7th in a criminal case in state court and
10 doesn't know who would take priority.

11 I'm happy to excuse this person -- oh, this person
12 also says they have worked a terrorism case with Homeland
13 Security FBI. They were a Senior Crime Scene specialist.

14 MR. KOEHLER: We have no objection.

15 THE COURT: Do you want to excuse 16?

16 MR. MAYNARD: Yes.

17 THE COURT: 16 is excused.

18 Who is next, Mr. Maynard?

19 MR. MAYNARD: Judge, I guess maybe just inquire about
20 No. 40.

21 THE COURT: Yes. I thought I should inquire.

22 MR. MAYNARD: And No. 116.

23 THE COURT: Oh, yes.

24 MR. MAYNARD: Because of the explanation.

25 THE COURT: I think 116 should be excused.

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1 I had neglected to write her number down here, but I
2 agree with you, Mr. Maynard. This is the woman who was the
3 flight attendant who was on a flight or had -- not at her home
4 base on 9/11 and lost people.

5 Is there any objection, Mr. Koehler, to excusing 116?

6 MR. KOEHLER: No, Your Honor.

7 THE COURT: 116 is excused.

8 MR. MAYNARD: And then 111.

9 THE COURT: You know, I was going to inquire because
10 that's a -- it's basically a weekend.

11 MR. MAYNARD: Oh, okay.

12 THE COURT: The 27th and 28th are Saturday and
13 Sunday. Next -- next week -- so the 25th is Thursday, 26th is
14 Friday. So I was going to inquire.

15 I don't have any objection to excusing this person.
16 But I thought, you know, if it's just "I was planning to drive
17 up to Sunrise and go skiing but I could go some other
18 weekend."

19 MR. MAYNARD: That's fine.

20 THE COURT: Did you have anybody else that you
21 flagged base on the answers?

22 MR. MAYNARD: No.

23 THE COURT: How about the prosecution? Mr. Koehler?
24 Did you have anyone else that you wanted to excuse just based
25 on their answers?

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1 MR. KOEHLER: Not that we can think of at the moment,
2 Your Honor.

3 THE COURT: Okay. Then the last thing before we
4 bring up the jurors for voir dire is when we -- when I left
5 you this morning, you said there was going to be a new joint
6 statement of the case.

7 MR. KOEHLER: Your Honor, we proposed a new paragraph
8 for the first paragraph of the joint statement of the case and
9 handed that to the defense to take a look if they have an
10 objection to it. They would prefer to stick with the original
11 joint statement of the civil case.

12 THE COURT: I can't hear you, Mr. Koehler.

13 MR. KOEHLER: I'm sorry.

14 THE COURT: You said you asked them to look at it
15 and?

16 MR. KOEHLER: And they object. They would prefer to
17 stick with the original joint statement.

18 THE COURT: Then we will stick with the original one
19 to which there is no objection except I'm changing the word
20 "currency" to "money."

21 MR. KOEHLER: No objection.

22 MR. MAYNARD: We have no objection.

23 THE COURT: Okay. Good. Anything else before we
24 bring up the remaining prospective jurors?

25 MR. MAYNARD: Is there any possibility we're going to

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1 break for lunch or no?

2 THE COURT: I eat and work simultaneously.

3 Well, what would you like to do? It's one o'clock.

4 You know, I can give you a little leeway.

5 MR. MAYNARD: Twenty minutes?

6 THE COURT: Done. Does that work?

7 MR. KOEHLER: Sounds good.

8 THE COURT: We will bring the jurors up then about
9 1:20.

10 Court is in recess.

11 (Recess taken at 12:59 p.m.)

12 (Open court, jury present at 2:01 p.m.)

13 **JURY SELECTION**

14 THE COURT: Good afternoon, ladies and gentlemen.

15 Please sit down. And I apologize for the close quarters. But
16 hopefully it will stay cool in the courtroom. It feels pretty
17 pleasant in here right now and we will try to be as efficient
18 as we can be.

19 Go ahead, Maureen.

20 THE CLERK: Criminal case 15-707. United States of
21 America v. Abdul Malik Abdul Kareem. Time set for jury trial.

22 Counsel, please announce your presence for the
23 report.

24 MS. BROOK: Good afternoon. Kristen Brook and Joe
25 Koehler on behalf of the United States.

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1 MR. MAYNARD: Daniel Maynard and Mary Plomin on
2 behalf of Mr. Abdul Malik Abdul Kareem who is present in the
3 courtroom.

4 THE COURT: Thank you. Will all the prospective
5 jurors who are seated in the courtroom please stand and be
6 sworn -- I guess sworn again.

7 (Prospective jurors duly sworn.)

8 THE COURT: Thank you. Please sit down.

9 This is where I usually say we are now going to begin
10 the jury selection process in this case, but we have already
11 begun the jury selection process and I want to thank you so
12 much for your patience.

13 I know you filled out some questionnaires this
14 morning. We have reviewed those questionnaires. And we will
15 try not to repeat anything that was already asked of you in
16 writing in the questionnaires; and hopefully, that has also
17 made our process here this afternoon more efficient.

18 However, I will be asking you a number of questions
19 about yourselves. And these questions are not designed to pry
20 unnecessarily into your personal lives. And I hope that the
21 ones that were a little personal we've already asked in
22 writing and that there won't be any additional ones.

23 But please understand that both the written questions
24 and these oral questions this afternoon are necessary to be
25 asked in order to find out if any of you have any knowledge

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1 about the case that's going to be tried, to find out if you
2 know any of the people who might be involved in the case, to
3 find out if you have any preconceived opinions about the case
4 that you might find difficult to set aside, and to find out if
5 you have had any personal experience or experience through a
6 family member or close friends that might affect your ability
7 to be fair and impartial.

8 Please do not withhold information in order to be
9 seated on the jury. Please do not be concerned with whether
10 your answers to the questions are right or wrong. This is not
11 supposed to be a test, ladies and gentlemen. I ask that you
12 just be honest and straightforward in your answers and do not
13 be concerned with what you think the lawyers or I might want
14 to hear from you.

15 I am going to try to ask questions that will be
16 addressed to the whole jury panel that call for a "yes" or
17 "no" answer. In your answer to one of these questions is
18 "no," you don't need to do anything.

19 If your answer is "yes," I will then call on you and
20 ask some additional questions.

21 When I call on you, we will also hand you a
22 microphone so that you can answer the question and everyone in
23 the courtroom will be able to hear your answer.

24 When I call on you, I will call on you by juror
25 number. We are trying to keep the names of our jurors out of

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1 the public record. And that is the reason why you have been
2 given juror numbers and we will address you by juror number
3 rather than ask your name.

4 If at any time, ladies and gentlemen, I do ask a
5 question and for whatever reason you don't want to answer the
6 question out loud in the presence of all of the people in the
7 courtroom, we can hear your answer privately. And I will
8 simply invite that prospective juror and the lawyers over here
9 to sidebar where we have a little microphone that doesn't
10 broadcast through the courtroom but only broadcasts into our
11 court reporter's headset and we can hear your answer
12 privately.

13 It is no difficult thing for us to do and we much,
14 much prefer having your answer than having you feel that it
15 would be embarrassing or difficult to answer the question in
16 the hearing of all of the rest of the people in the courtroom.

17 So I want to begin with some introductions, ladies
18 and gentlemen. First, I want to introduce the people that are
19 here as court staff. Liz Lemke is our court reporter. Her
20 job is to take down everything that's said during court so
21 that if in the future anyone wants a word-for-word transcript
22 she would be able to produce one.

23 I think you have met Maureen Williams and you know
24 that one of her jobs is to administer the oaths to prospective
25 jurors. She is our courtroom deputy. She will be in charge

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1 of all of the exhibits in the trial. And she is also someone
2 who can be available to answer any questions that you might
3 have related to your jury service.

4 Another courtroom deputy Kathy Lara will be assisting
5 us as well this afternoon. She may not be here during the
6 balance of the trial, but she is going to assist us in jury
7 selection, as is one of my law clerks Sanessa Griffith.

8 She has a microphone in the back of the courtroom.
9 We're trying to get another microphone so that we can have one
10 for each side of the courtroom. And I think we have one up
11 here. Is there -- oh. We're going to have a microphone up
12 here for the jurors that are in the front of the courtroom and
13 we'll pass that around as I call on you by number to answer
14 any questions that you may have indicated you have a "yes"
15 answer.

16 My name is Susan Bolton and I am one of the judges
17 here in the United States District Court in the District of
18 Arizona.

19 At this time I would like to ask Mr. Koehler and the
20 people that are seated with him to introduce themselves to the
21 prospective jury. And after you have introduced yourselves,
22 speaking at a microphone, then I'm going to ask you to turn
23 around and let all the people behind you also see you so that
24 I can -- they can answer my next question.

25 MR. KOEHLER: Good afternoon. My name is Joe

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1 Koehler. I'm an Assistant United States Attorney. With me is
2 Kristen Brook, also an Assistant United States Attorney, and
3 Stewart Whitson a Special Agent with the Federal Bureau of
4 Investigation.

5 THE COURT: Thank you, Mr. Koehler.

6 And the next question, ladies and gentlemen, that you
7 may have already anticipated is: Do any of you know
8 Mr. Koehler, Ms. Brook, or Special Agent Whitson?

9 I see no hands.

10 Mr. Koehler and Ms. Brook work for the United States
11 Attorney's Office here in the District or State of Arizona.
12 To your knowledge, do any of you know anyone who works in the
13 United States Attorney's Office here in Arizona?

14 And, again, I see no hands.

15 Thank you very much.

16 Mr. Maynard, would you introduce yourself and
17 introduce the people that are seated with you.

18 MR. MAYNARD: Yes. I'm Dan Maynard and I'm here
19 representing Abdul Malik Abdul Kareem along with Mary Plomin
20 who is a lawyer with me and John Colvin who is a private
21 investigator working with me.

22 THE COURT: I'm sorry. Remember to speak at a
23 microphone so everybody can hear you and that includes me.

24 And I didn't get the last name of your investigator.

25 MR. MAYNARD: John Colvin.

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1 THE COURT: Colvin.

2 MR. MAYNARD: Yes. C-O-L-V-I-N.

3 THE COURT: Thank you very much.

4 Okay. Turn and face the people here. Some I think
5 are blocked by the lectern. Okay. Thanks. Please sit down.

6 Do any of you know Mr. Maynard, his client
7 Mr. Kareem, his associate Ms. Plomin, or his investigator
8 Mr. Colvin?

9 There is one hand. We're going to bring you a
10 microphone and you're juror No. 45.

11 Who do you know, No. 45?

12 PANELIST NO. 48: I'm Juror No. 48.

13 THE COURT: I'm sorry. No. 48.

14 PANELIST NO. 48: I'm Mr. Maynard's neighbor.

15 THE COURT: You're Mr. Maynard's neighbor.

16 Well, I'm going to excuse you -- I'm going to excuse
17 you from serving as a trial juror in this case. And I'm not
18 going to ask you whether he's a good neighbor or a bad
19 neighbor but you may be excused at this time. Thank you very
20 much.

21 PANELIST NO. 48: All right.

22 THE COURT: Are there any other hands?

23 I don't see any. Thank you very much, ladies and
24 gentlemen.

25 At this time I'm going to read you a brief statement

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1 about the nature of the charges in this case.

2 The United States alleges that the defendant Abdul
3 Malik Abdul Kareem, also known as Decarus Thomas, was involved
4 in a conspiracy to provide material support to the Islamic
5 State of Iraq and the Levant, also known as ISIL and ISIS, a
6 designated foreign terrorist organization.

7 The United States alleges Mr. Kareem conspired with
8 Elton Simpson and Nadir Soofi to provide material support in
9 the form of property, money, service, training, weapons,
10 personnel, and transportation to ISIL via Simpson and Soofi by
11 planning to conduct attacks within the United States, and
12 ultimately, aiding Simpson and Soofi in their attack at the
13 Muhammad Art Exhibit and Contest held at the Curtis Culwell
14 Center in Garland, Texas, on May 3, 2015.

15 The United States alleges Mr. Kareem's
16 co-conspirators Simpson and Soofi drove from Phoenix, Arizona,
17 to Garland, Texas, carrying with them six weapons and
18 approximately 1500 rounds of ammunition to conduct the attack.

19 The United States alleges that Simpson and Soofi
20 drove into the parking lot at the event, got out of their car,
21 and began shooting assault rifles at a security guard and a
22 police officer before both Simpson and Soofi were shot and
23 killed by police officers at the scene.

24 The United States alleges Mr. Kareem encouraged
25 Simpson and Soofi to conduct the attack and knowingly aided

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1 Simpson and Soofi in planning the attack by, among or things,
2 providing firearms training and transportation to training,
3 helping them acquire firearms, and providing financial support
4 to them.

5 The United States also alleges Mr. Kareem made a
6 series of false statements during an FBI interview on May 5,
7 2015, including that he did not know in advance that Simpson
8 and Soofi planned to conduct an attack in Garland, Texas, and
9 that he did not know about an event, that is, the Muhammad Art
10 Exhibit and Contest that was to take place in Garland, Texas,
11 on or about May 3, 2015, until after Simpson and Soofi were
12 killed while attempting to conduct the attack on the contest.

13 The United States further alleges that Mr. Kareem was
14 prohibited from possessing firearms because of a prior felony
15 conviction.

16 The United States also alleges that Mr. Kareem was in
17 possession of two firearms on June 10, 2015.

18 Mr. Kareem denies all of the above allegations.

19 Mr. Kareem is charged in the Indictment with five
20 counts.

21 Count 1 charges him with conspiring with Simpson and
22 Soofi to transport firearms in interstate commerce with intent
23 to commit felonies, that is, Murder and Aggravated Assault, in
24 violation of the laws of the State of Texas.

25 Count 2 charges Mr. Kareem with aiding and abetting

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1 Simpson and Soofi's act of transporting firearms in interstate
2 commerce with the intent to commit the felonies described
3 above, Murder and Aggravated Assault.

4 Count 3 charges Mr. Kareem with knowingly making
5 material false statements to the FBI during the investigation
6 following the events that occurred in Garland, Texas.

7 Specifically, it alleges Mr. Kareem knowingly made
8 the following false statements:

9 One, that he did not go shooting in the desert with
10 Simpson and Soofi before May 3, 2015;

11 Two, that before May 3, 2015, neither Simpson nor
12 Soofi fired the weapons they used in connection with the
13 attack in Garland, Texas;

14 Three, that Simpson and Soofi did not ask him to
15 participate in an attack of any kind on or before May 3, 2015;

16 Four, that he did not know in advance that Simpson
17 and Soofi planned to conduct an attack in Garland, Texas;

18 And five, that he did not know about an event, that
19 is, the Muhammad Art Exhibit and Contest that was to take
20 place in Garland, Texas, on or about May 3, 2015, until after
21 Simpson and Soofi were killed while attempting to conduct an
22 attack on the contest.

23 Count 4 charges Mr. Kareem with possessing two
24 firearms, a .38 caliber revolver and a 9 millimeter pistol
25 after having been convicted of a felony Aggravated Driving

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1 While Under the Influence.

2 Count 5 charges Mr. Kareem with conspiring with
3 Simpson and Soofi to provide material support to ISIL, a
4 designated foreign terrorist organization.

5 Mr. Kareem has entered a plea of not guilty to the
6 charges and is presumed innocent.

7 The United States bears the burden of proving each
8 charge beyond a reasonable doubt.

9 Ladies and gentlemen, have any of you or any of your
10 close family members or close personal friends ever been
11 involved in any way in a case like this?

12 I see no hands.

13 Usually, my first question after reading the
14 statement of the case is to ask you what you have seen, read,
15 or heard about the case. And I'm not asking you that question
16 because we asked you about the incident in Garland, Texas, in
17 your written questionnaire.

18 Is there anything about the case that I have just
19 described to you that with just that description alone you
20 believe would make it difficult for you to serve as a fair and
21 impartial juror?

22 I see a few hands. We'll start in the back. I think
23 I saw two hands in the last row and then there's a hand up
24 front. So we'll start with the last row first. There's
25 another hand over here.

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1 And could I ask the people in the back, since I can't
2 see all of you, if you would stand when you're answering my
3 questions. Who's got the microphone? Juror No. 119.

4 PANELIST NO. 119: I just do not feel that I could
5 fairly do the trial.

6 THE COURT: Is there anything more that you can tell
7 me about why you feel that way?

8 PANELIST NO. 119: Can I approach?

9 THE COURT: Yes. You can. So just -- why don't you
10 hand the microphone to the next person. We'll get to that
11 person later. But if you would come up here to the front of
12 the courtroom and counsel can join her and we can get a little
13 bit more information from No. 119.

14 (At sidebar on the record.)

15 THE COURT: Hold on a second. Let the lawyers get up
16 where they can hear you.

17 PANELIST NO. 119: I'm a retired elementary art
18 teacher and that involves children and stuff and I do not feel
19 I could fairly do the trial.

20 THE COURT: Because that you were an art teacher?

21 PANELIST NO. 119: Yes.

22 THE COURT: And you are concerned that perhaps this
23 was a contest the children were involved in?

24 PANELIST NO. 119: Yes. And the children could have
25 been hurt and I cannot do that.

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1 THE COURT: Do you have any objection?

2 MR. MAYNARD: No.

3 MR. KOEHLER: No.

4 THE COURT: Thank you very much for your candor and
5 you are excused.

6 PANELIST NO. 119: Thank you so much. It's a hard
7 choice to make but I want to be fair.

8 THE COURT: I agree. I agree. Thank you very much.
9 You may be excused at this time.

10 (End of discussion at sidebar.)

11 THE COURT: And for the record, No. 119 is excused.

12 And I believe there was another person with a hand up
13 in the back. The gentleman in red, you're juror number --

14 PANELIST NO. 120: 120.

15 THE COURT: Juror 120. Yes, sir.

16 PANELIST NO. 120: My son spent two years in Iraq as
17 a Marine and the stories he brought home --

18 THE COURT: You're concerned that because of the
19 things that he's told you about his experiences there might
20 make it difficult for you to be fair and impartial?

21 PANELIST NO. 120: Yes.

22 THE COURT: Thank you very much, sir.

23 No. 114.

24 PANELIST NO. 114: I would also like to approach.

25 THE COURT: Okay. Come on up.

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1 (At sidebar on the record.)

2 THE COURT: Speak into this microphone as soon as the
3 lawyers get here. Go ahead.

4 PANELIST NO. 114: I just feel like as of what I have
5 heard, I wouldn't be fair.

6 THE COURT: Why do you think that?

7 PANELIST NO. 114: I don't know. I just feel like if
8 there is so many things against him that there is something
9 going on.

10 THE COURT: Well, the government has to prove beyond
11 a reasonable doubt what they have alleged.

12 PANELIST NO. 114: Uh-huh.

13 THE COURT: And I will be explaining later to all of
14 the jurors exactly what that means. These are just
15 allegations that they have made. And jurors are required to
16 presume an individual is innocent.

17 Do you think that you can't do that?

18 PANELIST NO. 114: Honestly? No.

19 THE COURT: Okay. Thank you.

20 PANELIST NO. 114: I'm being very honest.

21 THE COURT: No. I appreciate that. It's very
22 important.

23 PANELIST NO. 114: I just don't want my opinion to
24 affect somebody's life.

25 THE COURT: Any objection to excusing 114?

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1 MR. MAYNARD: No.

2 MR. KOEHLER: No.

3 THE COURT: Thank you very much. You are excused at
4 this time.

5 (End of discussion at sidebar.)

6 THE COURT: For the record No. 114, is excused.

7 No. 104?

8 PANELIST NO. 104: Yes. Similar to the previous
9 gentleman, I have two nephews who between them have served six
10 tours in Iraq and Afghanistan and have shared a lot of
11 information with me about those tours.

12 THE COURT: Thank you very much, sir.

13 Can we hand the microphone up to this lady in the
14 front who had her hand up. I think it's 129.

15 PANELIST NO. 129: Can I speak to you up there?

16 THE COURT: Sure. No. 129 is going to approach.

17 (At sidebar on the record.)

18 THE COURT: Speak into this, please.

19 PANELIST NO. 129: Okay. The case that -- in
20 Oklahoma I sit through a murder investigation. My boyfriend
21 at the time was charged with murder. And they put me -- they
22 had -- and they made me a material witness and they had put me
23 in protective custody.

24 THE COURT: And you think that that experience --

25 PANELIST NO. 129: Would make it hard for me to

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1 believe what people are saying, yeah.

2 THE COURT: Is there any objection to 129 being
3 excused?

4 MR. MAYNARD: No.

5 MR. KOEHLER: No.

6 THE COURT: Thank you very much for telling us that
7 and you are excused at this time.

8 PANELIST NO. 129: Okay. Thank you.

9 (End of discussion at sidebar.)

10 THE COURT: Juror 129 is excused.

11 Who was the microphone? All right. You are No. 44.

12 PANELIST NO. 44: No. 44. May I approach?

13 THE COURT: Yes, you may.

14 PANELIST NO. 44: I'm sorry.

15 THE COURT: No. No apology.

16 (At sidebar on the record.)

17 THE COURT: Okay. Go ahead.

18 PANELIST NO. 44: I was in the Air Force in 2000 to
19 2004 and I was a part of serving when 9/11 happened and I
20 currently work for the VA.

21 THE COURT: The DEA?

22 PANELIST NO. 44: The VA. And I see a lot of these
23 guys coming back with their wounds and stuff. I think I can
24 be pretty impartial but I don't think it's fair to the guy if
25 there is somebody that has served and is currently working for

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1 the Veterans Affairs and doing that stuff if I'm going to be
2 judging his life. So I don't think it's fair to him, so I
3 think I might have a subtle bias.

4 THE COURT: When you say a "subtle bias," what's
5 important here is that you're able to listen to all of the
6 evidence, presume innocence until the government presents all
7 of its evidence, and then hold them to proof beyond a
8 reasonable doubt.

9 PANELIST NO. 44: Yes.

10 THE COURT: Can you do that?

11 PANELIST NO. 44: I could. I just don't think it's
12 fair to him knowing that there's a former service member that
13 was affected by this and his family.

14 THE COURT: I understand your concern and we'll find
15 out.

16 PANELIST NO. 44: I agree. I just wanted you to know
17 that.

18 THE COURT: All right. And Mr. Maynard will
19 communicate with you about that. Thank you, No. 44.

20 (End of discussion at sidebar.)

21 THE COURT: And who has the microphone now?

22 Yes, sir. You're number?

23 PANELIST NO. 41: Forty-one.

24 THE COURT: Could you stand so I can see you? Thank
25 you, sir.

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1 PANELIST NO. 41: My name is Steven --

2 THE COURT: Don't tell us your name.

3 PANELIST NO. 41: Ignore that.

4 THE COURT: For today you're No. 41.

5 PANELIST NO. 41: Yes. So anyway, so for about five
6 years now I have been a staunch atheist and anti-religion
7 extremist. I believe that would heavily affect my decision in
8 the case.

9 THE COURT: Because of your personal anti-religion
10 feelings?

11 PANELIST NO. 41: And specifically extremist views.

12 THE COURT: Okay. Thank you very much for letting us
13 know that.

14 Were there any other hands over here to my left --
15 yes -- my left.

16 Then to my right I saw at least there's a hand in the
17 front row. You are juror No. 32.

18 PANELIST NO. 32: May I approach, Your Honor?

19 THE COURT: You may, of course.

20 (At sidebar on the record.)

21 THE COURT: Go ahead, No. 32.

22 PANELIST NO. 32: I was born in the southern
23 Philippines of a Christian family. For decades my family has
24 been at war with the Muslims in the southern Philippines. It
25 was a dirty war, so my brothers and my father was involved in

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1 this war and the war continues.

2 So I grew up in that kind of --

3 THE COURT: So you have -- you're concerned that your
4 feelings about the Muslims in the Philippines would cause you
5 to be biased against an individual who was a Muslim in this
6 country?

7 PANELIST NO. 32: Yes.

8 THE COURT: Is there any objection to excusing 32?

9 MR. MAYNARD: No.

10 THE COURT: Any objection?

11 MR. KOEHLER: No.

12 THE COURT: Thank you very much for your candor, sir,
13 and you are excused.

14 (End of discussion at sidebar.)

15 THE COURT: Juror No. 32 is excused.

16 You must be No. 33.

17 PANELIST NO. 33: Yes. May I approach the bench
18 please?

19 THE COURT: Yes. Maybe the lawyers ought to just
20 stay up here.

21 (At sidebar on the record.)

22 THE COURT: I'm going to ask you to speak into this
23 microphone.

24 PANELIST NO. 33: I just feel for -- if he's
25 representing ISIS and I being a Christian, I don't feel I can

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1 give fair decision.

2 THE COURT: That is the question the jurors are going
3 to be asked to decide. Right now all we have are allegations
4 and no evidence to prove any of it.

5 PANELIST NO. 33: I understand that. But I feel I
6 wouldn't be able to give an impartial judgment on that.

7 THE COURT: So you feel that based on just what I
8 read you won't be able to presume the defendant innocent?

9 PANELIST NO. 33: No.

10 THE COURT: Any objection to excusing 33?

11 MR. MAYNARD: No.

12 MR. KOEHLER: No.

13 THE COURT: Okay. Thank you very much for your
14 candor, sir. You are excused.

15 (End of discussion at sidebar.)

16 THE COURT: Juror 33 is excused.

17 Is there anyone else who had a hand up on this side
18 of the courtroom?

19 Anyone else in the front? Where is the microphone?

20 PANELIST NO. 6: Can I approach?

21 THE COURT: Oh, sure. This is Juror No. 6.

22 If the coughing juror wants some water, we have some
23 up here we can give you.

24 (At sidebar on the record.)

25 PANELIST NO. 6: I do have a brother in Homeland

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1 Security. He's a special agent.

2 THE COURT: Is he here in Phoenix?

3 PANELIST NO. 6: No. He's in Seattle.

4 THE COURT: Do you know what his job is.

5 PANELIST NO. 6: Just that he's a special agent in
6 Homeland Security for the federal government. And also have a
7 brother-in-law who's an officer in the Navy and another
8 brother who is an officer in the Air Force.

9 I also had two cousins killed by drunk drivers and I
10 don't want to go through that again.

11 THE COURT: So you are concerned that because you
12 know he had that conviction, you know that that causes you to
13 be biased?

14 PANELIST NO. 6: Yeah. I don't want to go through
15 that again. I'm shaking.

16 THE COURT: Any objection to excusing No. 6?

17 MR. MAYNARD: No.

18 MR. KOEHLER: No.

19 THE COURT: Thank you very much for your candor. You
20 are excused.

21 PANELIST NO. 6: Is that the whole five weeks?

22 THE COURT: Yes.

23 (End of discussion at sidebar.)

24 THE COURT: No. 6 is excused.

25 Were there any other hands?

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1 No. 31. See the lawyers are up here waiting for you
2 already.

3 (At sidebar on the record.).

4 PANELIST NO. 31: Currently, I work for the United
5 States Border Patrol and my mission, it's a little bit of a
6 conflict of interest with this case. I mean, I feel like I
7 wouldn't -- I wouldn't be --

8 THE COURT: So you think because of your training and
9 that type of interdiction that you do in the Border Patrol.

10 PANELIST NO. 31: Yeah. I'm trying to stop what's --
11 you know, weapons of mass destruction and terrorists from
12 coming into the country. It's part of our mission.

13 THE COURT: Is there any objection to excusing No.
14 31?

15 MR. MAYNARD: No.

16 MR. KOEHLER: No.

17 THE COURT: Thank you very much, sir. You may be
18 excused.

19 (End of discussion at sidebar.)

20 THE COURT: Juror 31 is excused.

21 Any other hands?

22 Okay. We'll move on to some more questions.

23 Hold on. I'm just eliminating from my stack the
24 questionnaire answers of the people that have been excused so
25 we can -- it will be more manageable when we get to some

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1 individual questions.

2 Ladies and gentlemen, you have already read the
3 witness list, but there were two names that I wanted to bring
4 to your attention right now and ask you if any of you know
5 either of these two individuals, both of whom work for the
6 FBI.

7 Jennifer Fisher and Cathy Appleton.

8 Do any of you know or think you might know either of
9 those two employees of the FBI?

10 I see no hands. Thank you.

11 Ladies and gentlemen, have any of you ever been a
12 member of a grand jury?

13 I see a couple of hands. Let's start in the front
14 here with juror No. 51. Sir, what grand jury were you a
15 member of?

16 PANELIST NO. 51: Federal grand jury for the District
17 of Western Washington.

18 THE COURT: And how long ago was that?

19 PANELIST NO. 51: Two-and-a-half years ago is when I
20 left when I moved here.

21 THE COURT: How long did you serve?

22 PANELIST NO. 51: Eleven months.

23 THE COURT: I always ask grand jurors that so that
24 our five-week trial all of a sudden sounds really short.

25 Sir, do you understand that your function as a member

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1 of a grand jury is different from the function you would serve
2 here as a trial juror?

3 PANELIST NO. 51: I do.

4 THE COURT: And here you would have to find proof
5 beyond a reasonable doubt before the defendant could be found
6 guilty of any of the crimes that were charged.

7 PANELIST NO. 51: I understand that.

8 THE COURT: And would you be able to honor that
9 burden of proof that is different from the burden that the
10 government had before the grand jury?

11 PANELIST NO. 51: I believe I would.

12 THE COURT: Thank you very much, No. 51.

13 And was there someone else who has been a member of a
14 grand jury?

15 We're going to go to 85. And then I see a hand over
16 on the extreme other side. No. 85?

17 PANELIST NO. 85: Yes.

18 THE COURT: And what grand jury did you serve on?

19 PANELIST NO. 85: I served at the DuPage County Grand
20 Jury in DuPage County, Illinois.

21 THE COURT: How long ago?

22 PANELIST NO. 85: It was about 20 years ago.

23 THE COURT: And for how long did you serve?

24 PANELIST NO. 85: I served for three months.

25 THE COURT: And do you also understand the difference

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1 between your function here if selected as a trial juror than
2 your function as a member of a grand jury?

3 PANELIST NO. 85: Yes, Your Honor.

4 THE COURT: And would you be able to hold the
5 government to the standard of proof beyond a reasonable doubt
6 that's required in a trial?

7 PANELIST NO. 85: Yes, Your Honor.

8 THE COURT: Thank you very much.

9 And you are No. 86.

10 PANELIST NO. 86: Juror 86. I served on the County
11 Grand Jury for Orange County, Florida, in the late '80s.

12 THE COURT: For how long did you serve?

13 PANELIST NO. 86: For three months.

14 THE COURT: And do you understand the difference in
15 the requirements of proof here in the trial jury than what you
16 had when you served as a grand juror?

17 PANELIST NO. 86: I do, Your Honor.

18 THE COURT: And will you be able to apply that burden
19 of proof beyond a reasonable doubt here if selected?

20 PANELIST NO. 86: Yes, I will.

21 THE COURT: Thank you very much.

22 Anyone else who has ever served on a grand jury?

23 I see no further hands.

24 Do we have any lawyers who are members of the
25 prospective jury panel?

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1 We have one lawyer in the back. You are juror No.
2 115?

3 PANELIST NO. 115: Yes.

4 THE COURT: And do you practice law here in Phoenix?

5 PANELIST NO. 115: Yes.

6 THE COURT: Do you practice in the area of criminal
7 law?

8 PANELIST NO. 115: A little bit, yes.

9 THE COURT: A little bit.

10 If you were selected as a trial juror in this case,
11 would you follow my instructions on the law rather than doing
12 any research on your own or trying to apply what you recall to
13 be the applicable law that governs this case.

14 PANELIST NO. 115: Yes. I think so.

15 THE COURT: Thank you. Is there anyone else who is a
16 lawyer?

17 How about you might not be a lawyer but you studied
18 law either in law school or perhaps in college?

19 I see a hand. No. 18.

20 No. 9, could you pass the microphone down the row to
21 No. 18 and then we'll come back to No. 2.

22 PANELIST NO. 18: Hello. I did study criminal law in
23 college while studying forensics.

24 THE COURT: And if selected as a trial juror in this
25 case, will you follow my instructions on the law and not just

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1 off your old textbooks to try to figure out what the law is?

2 PANELIST NO. 18: Yes, I can.

3 THE COURT: Okay, thank you very much.

4 PANELIST NO. 18: You're welcome.

5 THE COURT: And could we pass the microphone right
6 behind you, No. 9, to No. 2.

7 PANELIST NO. 2: I'm currently in college right now.

8 THE COURT: And what are you studying that's
9 law-related?

10 PANELIST NO. 2: Organizational Security Management
11 Degree. Emphasis on Homeland Security.

12 THE COURT: Pardon me?

13 PANELIST NO. 2: Emphasis on Homeland Security.

14 THE COURT: On Homeland Security.

15 When you said "security," I was thinking "securities"
16 like "investments."

17 PANELIST NO. 2: No, ma'am.

18 THE COURT: And so are you studying criminal justice?

19 PANELIST NO. 2: Yes, ma'am.

20 THE COURT: Okay. And if selected as a juror in this
21 case, will you follow my instructions on the law rather than
22 what you learned in class?

23 PANELIST NO. 2: Yes, Your Honor.

24 THE COURT: Thank you very much.

25 And was there another hand? No. 93.

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1 PANELIST NO. 93: Yes. I studied criminal justice
2 and got a degree for Evidence Technology.

3 THE COURT: And same question. Will you follow my
4 instructions rather than what you might recall of what you
5 learned when you studied criminal justice in college?

6 PANELIST NO. 93: Yes.

7 THE COURT: Thank you very much.

8 Have any of you, close friends or family members who
9 are lawyers -- there's more to the question than just are
10 lawyers -- and practice in the area of criminal law. That is,
11 they work for a prosecutor's office, that could be the United
12 States Attorney's Office, an Attorney General's office, a
13 County Attorney or a District Attorney or they work as
14 criminal defense lawyers either in private practice or for a
15 public defenders organization.

16 Do any of you have any close friends or relatives who
17 are either criminal prosecutors or criminal defense attorneys?

18 There's a hand right there in that row and then we'll
19 go on down and get this side and then move over here.

20 You are No. 67?

21 PANELIST NO. 67: Yes, ma'am. My brother's
22 girlfriend's son is a lawyer, a criminal lawyer in Florida.

23 THE COURT: In Florida. And so do you have much
24 contact with him or hear anything about what he does?

25 PANELIST NO. 67: No.

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1 THE COURT: Okay. Thank you very much.

2 Let's see. We have somebody in the second row. Two
3 people in the second row and then one person in the first row
4 of the left side.

5 PANELIST NO. 44: I have a cousin in Washington.

6 THE COURT: I'm sorry. No. 44. I should have said
7 that for the record.

8 You have a cousin in Washington?

9 PANELIST NO. 44: Yes. She's a lawyer.

10 THE COURT: Do you have any particular contact with
11 what she does specifically?

12 PANELIST NO. 44: No, ma'am. I haven't spoken with
13 her in a few years.

14 THE COURT: Okay. Would you pass the microphone on
15 down to I think 41?

16 PANELIST NO. 41: Yes, Your Honor. Me and my
17 brother's friend, he's a practicing lawyer in Phoenix.

18 THE COURT: Practicing in the area of criminal --

19 PANELIST NO. 41: Criminal defense.

20 THE COURT: And do you have any particular contact
21 with him in terms of the types of cases that he handles?

22 PANELIST NO. 41: No.

23 THE COURT: Thank you. Could you hand the microphone
24 to the front row and we'll go to No. 25.

25 PANELIST NO. 25: I have an uncle, my paternal uncle

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1 was a criminal lawyer in Illinois for I don't know how many
2 years. He's now in Arizona and he has changed his scope and
3 now he's doing -- I don't even know what. I see him like once
4 a year.

5 THE COURT: Okay. Thank you, No. 25.

6 On this side there's a hand in the second and in the
7 third row.

8 PANELIST NO. 56: My sister-in-law is Assistant
9 Attorney General in the State of Oregon.

10 THE COURT: And do you and your sister-in-law have
11 conversations specifically about the cases that she
12 prosecutes?

13 PANELIST NO. 56: No. Years ago she mentioned -- I
14 don't know if she mentioned anything actually. No. I would
15 say no.

16 THE COURT: Okay. Thank you. And I think there is
17 someone behind you. No. 82.

18 PANELIST NO. 82: Yes. I have a cousin and she's
19 also a lawyer and she will be coming to visit me actually in
20 March.

21 THE COURT: Okay. Well, if you're on the jury, you
22 won't be able to talk to her about the case. Okay? Thank
23 you.

24 Anyone else? How about in the front?

25 I don't see any other hands. Thank you.

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1 Let me ask you about a couple of other types of
2 occupations. Do any of you or people close to you have
3 education, training, or employment as private investigators?

4 I see no hands.

5 How about in psychology or psychiatry?

6 I see a couple of hands -- a few hands in the back.

7 Let's go to the lady in green who is No. 69.

8 PANELIST NO. 69: Yes. One of our -- the scout moms
9 from our Boy Scout troop is a psychologist.

10 THE COURT: Okay. Thank you. And I think there is
11 someone in the row ahead of you. No. 46.

12 PANELIST NO. 46: I have a minor in psychology.

13 THE COURT: Okay. Thank you. Also 45.

14 PANELIST NO. 45: My oldest sister is a psychology
15 professor.

16 THE COURT: At where?

17 PANELIST NO. 45: California.

18 THE COURT: Thank you. And I think right behind you
19 there is a lady with a hand. No. 63.

20 PANELIST NO. 63: I have a Ph.D. in clinical child
21 psychology.

22 THE COURT: And is that your area of practice also?

23 PANELIST NO. 63: Was, yes.

24 THE COURT: Was? Are you not practicing psychology
25 anymore?

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1 PANELIST NO. 63: Not having to do with criminal.

2 THE COURT: Okay. Thank you very much.

3 Anyone else on this side? And on the other side,
4 Sanessa, and then we'll come to the front. We'll go to the
5 lady here on the end who is -- oh, no. In the first row. No.
6 39.

7 PANELIST NO. 39: I'm a special ed teacher so I
8 interact with the school psychologist daily.

9 THE COURT: Okay. Thank you very much.

10 And I think the lady at the end of the second row
11 there, No. 50.

12 PANELIST NO. 50: I have a degree in counseling
13 psychology.

14 THE COURT: And do you practice at this time?

15 PANELIST NO. 50: No.

16 THE COURT: Okay. Thank you.

17 Anyone else on -- one more hand in the back and then
18 we'll come to the front -- or two more hands.

19 PANELIST NO. 74: No. 74. My wife has a bachelor's
20 degree in Psychology and a master's degree in Social Work.
21 She's not practicing right now.

22 THE COURT: Thank you. And I think there was one
23 last hand in the very back.

24 No. 99.

25 PANELIST NO. 99: I have a master's degree in

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1 counseling and psychology. I'm working currently with the
2 reentry program with parolees as well as domestic violence and
3 substance abuse counseling.

4 THE COURT: Thank you very much.

5 Now we're going to move up front, and No. 135, you
6 have the microphone.

7 PANELIST NO. 135: Would you like me to stand?

8 THE COURT: No, because see, I can see you. It's the
9 people that are back there that I can't see.

10 PANELIST NO. 135: I just recently took a class of
11 psychology.

12 THE COURT: Okay. Thank you.

13 And I think there was some other hands. The
14 gentleman in front of you. You are No. 126.

15 PANELIST NO. 126: And when I went to college, I have
16 a minor in psychology.

17 THE COURT: Okay. Thank you. And there's Juror No.
18 15 -- 18. Thank you.

19 PANELIST NO. 18: I'm currently in school for my
20 master's degree in forensic psychology.

21 THE COURT: Thank you very much. I missed two
22 people. Right behind you, No. 8, and then one.

23 PANELIST NO. 8: No. 8. My son has a bachelor's in
24 psychology. He's not practicing though.

25 THE COURT: Thank you. And then if you just pass the

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1 microphone on down the row to No. 1.

2 PANELIST NO. 1: My wife is a school psychologist.

3 THE COURT: Thank you very much.

4 Have any of you had any training or employment in
5 corrections? I think we just actually heard from someone
6 that's working in reentry programs and we don't have to repeat
7 that information.

8 But there was a hand up about corrections in the
9 back. Yes, sir? You're number --

10 PANELIST NO. 95: No. 95. I'm currently an officer
11 with the Arizona Department of Corrections.

12 THE COURT: And what is your location where you work?

13 PANELIST NO. 95: Hyman Complex SMU-1.

14 THE COURT: Thank you very much. And I think there
15 was someone behind you.

16 PANELIST NO. 115: 115 again. Before I became an
17 attorney, I worked in corrections for five-and-a-half years
18 for the State of Maine.

19 THE COURT: Thank you very much.

20 Anyone in the front, training or work in corrections?

21 We'll come to 140. We'll get you the microphone.

22 It's on its way.

23 PANELIST NO. 149: California State I was working as
24 a nurse for the prisoners.

25 THE COURT: Okay. Thank you very much.

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1 Any other hands?

2 Do any of you have any education, training, or
3 employment in religion or philosophy?

4 I see a hand over on my right all the way against the
5 wall. You're Juror No. --

6 PANELIST NO. 102: 102.

7 THE COURT: Thank you.

8 PANELIST NO. 102: I did two years in liberal arts
9 with an emphasis on ministry.

10 THE COURT: And have you ever been employed in
11 ministry?

12 PANELIST NO. 102: Not as a minister. I worked for a
13 religious organization as a cook.

14 THE COURT: But not any longer?

15 PANELIST NO. 102: No. Not currently.

16 THE COURT: Thank you very much.

17 And also in that row there's a hand up. If you'll
18 pass the microphone to No. 98.

19 PANELIST NO. 98: I'm an ordained minister although I
20 don't practice.

21 THE COURT: Thank you very much.

22 Any other hands? Yes. 128. We'll give you the
23 microphone.

24 PANELIST NO. 128: I'm not personally trained, but I
25 am the daughter of a Southern Baptist Sunday school teacher.

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1 THE COURT: Okay. Thank you very much.

2 Education, training, or employment in computer or
3 information technology?

4 We've got a lot of hands here.

5 Did we have one more religion and philosophy? Let's
6 finish religion and philosophy and then we'll move to
7 computers and information. Technology.

8 PANELIST NO. 76: I'm called an ordained minister in
9 the Episcopal church and I'm training to be virtual also, my
10 virtual minister.

11 THE COURT: Okay. Thank you very much.

12 Let's start in the front. Computers and information
13 technology. Where's the microphone? Let's see. We'll start
14 with 128 and then 12 and then we'll go to the back row.

15 PANELIST NO. 128: I have my AAS in two different
16 networking technologies. I'm not currently working but I am
17 fully trained. I'm working on getting my A-plus
18 certification.

19 THE COURT: What is AAS?

20 PANELIST NO. 128: Associate's in Applied Sciences.

21 THE COURT: Thank you very much. No. 136.

22 PANELIST NO. 136: No. 136. I currently run the IT
23 network out at Luke Air Force Base and retired military
24 officer in IT.

25 THE COURT: Thank you very much. And 140.

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1 PANELIST NO. 140: I currently do infomatics
2 education for medical records data for nurses and doctors.

3 Thank you. And No. 12.

4 PANELIST NO. 12: Yes. I have a bachelor's of
5 science in Information Technology in programming.

6 THE COURT: And have you worked in that field also?

7 PANELIST NO. 12: As a JAVA developer, yes.

8 THE COURT: Okay. Thank you. No. 5.

9 PANELIST NO. 5: I've went to school for computer
10 networking and information technology but not in that field
11 right now.

12 THE COURT: Okay. Thank you. No. 3.

13 PANELIST NO. 3: I currently work in the IT
14 Department for Dignity Health.

15 THE COURT: Thank you. No. 2.

16 PANELIST NO. 2: I'm currently enrolled in college in
17 cyber technology.

18 THE COURT: Thank you very much. No. 1.

19 PANELIST NO. 1: I have a bachelor's degree in
20 computer science.

21 THE COURT: Thank you.

22 Let's start right where you are there. No. 34.

23 PANELIST NO. 34: I'm a senior database administrator
24 for the Clerk of the Superior Court. I teach -- I'm a
25 part-time teacher for the University of Phoenix where I teach

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1 JAVA programming. I'm working right now as a subject matter
2 expert for Grand Canyon University for their senior project.
3 And I just got hired also part-time to teach some of their IT
4 classes.

5 THE COURT: Thank you very much. Who else on this
6 side? Okay. Second row. Is there somebody else in the first
7 row? I'm sorry. I missed the hand over there.

8 PANELIST NO. 40: Juror No. 40. My career was spent
9 in the computer field, various positions.

10 THE COURT: Okay. Thank you. Second row. No. 51.

11 PANELIST NO. 51: I spent 30 years in the United
12 States Naval Submarine Force as an Electronics Advanced
13 Instructor.

14 THE COURT: Thank you. Next row. No. 74.

15 PANELIST NO. 74: I'm the Senior Information Services
16 Manager for a large semiconductor company here.

17 THE COURT: Thank you. Who is next? No. 97.

18 PANELIST NO.,. 97: My entire career has been with
19 business information systems.

20 THE COURT: Thank you.

21 PANELIST NO. 98: No. 98. Can I approach please?

22 THE COURT: Yes.

23 (At sidebar on the record.)

24 PANELIST NO. 98: I work for American Express and I
25 am the team lead and manager for our vulnerability management

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1 program. I'm in charge of thousands and thousands of servers
2 and hundreds of people and making sure that they do their job
3 and doing patching and all kinds of things like that.

4 THE COURT: Okay. Thank you very much.

5 (End of discussion at sidebar.)

6 THE COURT: No. 113.

7 PANELIST NO. 113: I'm Juror No. 113. I work in a
8 small production department working on softwares and servers
9 and configuring routers and gateways for commercial phone
10 systems.

11 THE COURT: And one more hand on this side.

12 PANELIST NO. 101: Juror 101. I own 50 percent of a
13 construction company that builds industrial data transport
14 systems.

15 THE COURT: Thank you. And on this side in the first
16 row we'll start with No. 28.

17 PANELIST NO. 28: I was a computer programmer analyst
18 for 40 years; recently retired.

19 THE COURT: Thank you, sir. Who is next?

20 PANELIST NO. 26: No. 26. I'm a retired teacher of
21 broadcast media and journalism.

22 THE COURT: And that involved computers?

23 PANELIST NO. 26: Much work with the computer.

24 THE COURT: Okay. Thank you. No. 47.

25 PANELIST NO. 47: (through ASL interpreter) No. 47.

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1 I work with --

2 THE COURT: Okay. Hold on. Stop a minute. Give the
3 microphone to the interpreter, please.

4 Let's start over.

5 PANELIST NO. 47: (through ASL interpreter) No. 47.
6 I work with development and user development tools at a
7 financial service company.

8 THE COURT: Thank you.

9 PANELIST NO. 45: No. 45. I'm the RN Director of the
10 Q Care Infomatics which trains providers and other clinicians
11 on the electronic health record.

12 THE COURT: Thank you. No. 41.

13 PANELIST NO. 41: I have an associate's of applied
14 science, emphasis design.

15 THE COURT: Thank you. Who else in the -- on my
16 left? Any other hands over here?

17 Let me ask just another couple of questions and then
18 we'll take a short break and come back and, hopefully, finish
19 up with the questioning this afternoon.

20 May I see a show of hands. How many of you or people
21 who live in your home with you own a firearm?

22 Let's try it the other way. How many of you or
23 people that live with you do not own a firearm?

24 I'd say it's 60/40.

25 For those of you who do own a firearm, how many of

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1 you go out and practice shooting it?

2 A whole lot of you.

3 How many of you shoot at a gun club?

4 How many of you when you go practicing go out and
5 shoot outside in some place where it's allowed?

6 Lots. The answer is "lots."

7 I want to know if any of you have any strong
8 opinions -- obviously, about 60 percent of you own or someone
9 in your home owns a firearm and about 40 percent of you do
10 not.

11 But I want to know if any of you have any strong
12 opinions about the right to own firearms or strong opinions
13 that firearms -- people shouldn't -- in the United States
14 shouldn't be allowed to own firearms?

15 Do any of you feel like you might be an advocate for
16 one position or the other, rather than simply an owner of
17 firearms or someone who doesn't own?

18 So we have several -- I'm just going to call out the
19 numbers of the people -- let me have -- first ask --

20 Do any of you have any strong opinions that firearms
21 should not be able to be owned by people in the United States?

22 Okay. And I'm not going to follow up. If the
23 lawyers want to, they can. And it's juror No. 20 and there
24 was one other hand. You are No. 100 and also No. 141. Did I
25 miss anybody?

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1 Okay. And then the show of hands of those of you who
2 have strong feelings, perhaps to the point of advocacy, about
3 the ownership, the right to have ownership of firearms.

4 And I'm going to call out the numbers: 128, 133,
5 132, 10, 37, 52, 79 -- and the person next to 79? No. 56?

6 PANELIST NO. 76: 76.

7 THE COURT: And in the back in red, No. 120. And
8 next to the gentleman in red, No. 101, 102, and 122.

9 And over here we have 24, 41, 43, 44, 28 -- and now
10 can't see the rest of the numbers.

11 The lady with the blonde hair?

12 PANELIST NO. 64: 64.

13 THE COURT: And all the way in back?

14 PANELIST NO. 104: 104.

15 THE COURT: And right in front of that gentleman?

16 PANELIST NO. 88: 88.

17 THE COURT: And over here. The gentleman that's
18 closest to me still with the hand up?

19 PANELIST NO. 66: 66.

20 THE COURT: No. 66, 108, 110, and 94.

21 Thank you very much.

22 Last question and we'll bring this subject to a close
23 and we'll take a short break.

24 Have any of you or someone close to you ever been
25 injured by a firearm?

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1 Okay. Several hands. Let's -- do you have the
2 microphone, No. 9?

3 Who was the person that was injured?

4 PANELIST NO. 9: My father was killed by a firearm.

5 THE COURT: How long ago was that?

6 PANELIST NO. 9: Thirty years ago.

7 THE COURT: Okay. Thank you very much.

8 Also No. 12 -- oh. No. 2 and then 12.

9 PANELIST NO. 2: I was deployed to Afghanistan and
10 lost soldier members.

11 THE COURT: I'm sorry?

12 PANELIST NO. 2: I was deployed to Afghanistan and
13 had soldiers members that were.

14 THE COURT: Thank you very much.

15 No. 12 -- no. I'm sorry. No. 5 and then 15.

16 PANELIST NO. 5: I know several people that were
17 killed by firearms.

18 THE COURT: Thank you. No. 15.

19 PANELIST NO. 15: Yes. I had a very close friend who
20 was killed by a firearm as well.

21 THE COURT: Thank you. No. 4 and then we'll go to
22 130.

23 PANELIST NO. 4: I have a cousin whose husband was
24 killed by a firearm and a brother-in-law who was shot in a
25 hunting accident.

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1 THE COURT: Thank you very much.

2 PANELIST NO. 18: My brother was injured by a firearm
3 and my brother-in-law was killed by a firearm.

4 THE COURT: And you are No. 18?

5 PANELIST NO. 18: Yes.

6 THE COURT: Thank you. And in front, No. 141.

7 PANELIST NO. 141: I have a close friend that was
8 killed by a firearm.

9 THE COURT: Thank you. And No. 140.

10 PANELIST NO. 140: A sister in 1984.

11 THE COURT: And No. 139.

12 PANELIST NO. 139: No. 139. I had a nephew that died
13 by a self-inflicted gunshot wound.

14 THE COURT: Thank you very much. No. 135.

15 PANELIST NO. 135: My cousin was shot.

16 THE COURT: Thank you. On this side, my right, let's
17 pass the microphone to No. 79.

18 PANELIST NO. 79: My father was shot twice on two
19 separate occasions.

20 THE COURT: Thank you. Behind you.

21 PANELIST NO. 97: No. 97. My uncle, self-inflicted
22 wound.

23 THE COURT: Thank you. And I think next to you.

24 PANELIST NO. 98: No. 98. My father-in-law committed
25 suicide with a shotgun.

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1 THE COURT: Thank you. Was there anyone else over
2 here?

3 PANELIST NO. 100: No. 100. My dad was shot a couple
4 of times and I was deployed to Vietnam and I lost a lot of
5 soldier friends.

6 THE COURT: Thank you. And behind you, No. 122.

7 PANELIST NO. 122: No. 122. My cousin's daughter
8 shot herself.

9 THE COURT: Thank you. And was there another hand
10 over here in the second row, Sanessa.

11 PANELIST NO. 56: No. 56. My aunt was killed by a
12 firearm in a hunting accident.

13 THE COURT: Thank you. And then we'll move over to
14 the other side in the front row, Sanessa. No. 29.

15 PANELIST NO. 29: Over the summer my cousin's firearm
16 went off and he was killed.

17 THE COURT: Thank you.

18 PANELIST NO. 45: No. 45. My father was shot six
19 times over 50 years ago.

20 THE COURT: Thank you very much.

21 PANELIST NO. 42: No. 42. My dad was shot and my
22 ex-husband was killed.

23 THE COURT: Thank you. Other hands on my left?
24 There's, I think, two more.

25 PANELIST NO. 89: No. 89. One of my good friends was

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1 shot as was the rest of the party.

2 THE COURT: Thank you. And also behind you.

3 PANELIST NO. 104: No. 104. My step-brother was
4 killed by a firearm.

5 THE COURT: Thank you very much. Okay. There's
6 actually two more hands.

7 Yes. You are No. 103?

8 PANELIST NO. 103: No. 103. I was shot at in my 20s.

9 THE COURT: You were shot at?

10 PANELIST NO. 103: Yes.

11 THE COURT: Thank you. And, luckily, they missed.

12 PANELIST NO. 103: Yes.

13 THE COURT: There is one other gentleman in the third
14 row, Sanessa.

15 PANELIST NO. 67: Juror No. 67, Your Honor.

16 THE COURT: Could you take the microphone? Thank
17 you, No. 67.

18 PANELIST NO. 67: Yes, ma'am. Juror No. 67. My son
19 killed himself a couple years ago.

20 THE COURT: Thank you very much.

21 So we're going to take a short break so you can
22 stretch your legs and use the restrooms. I think there's
23 multiple restrooms on this floor.

24 When you come back, please take the same seats that
25 you're presently occupying. On the recess do not discuss the

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1 case among yourselves or with anyone else or any of the
2 questions.

3 This is Courtroom 502 for when you come back in.

4 Thank you. And let's do this as quickly as possible.
5 I know there's a lot of you but let's try to be back by 3:30.

6 (Recess taken at 3:12 p.m.; resumed at 3:34 p.m.)

7 THE COURT: Thank you, ladies and gentlemen. Please
8 sit down. The record will show the presence of the
9 prospective jurors, counsel, and the defendant.

10 We have secured a third microphone, so we'll see if
11 that helps speed things up a little bit.

12 I have one more firearms question. Do any of you
13 consider yourselves a firearms expert?

14 I see no hands. Thank you.

15 Ladies and gentlemen, I want to know if any of you
16 are presently employed in law enforcement.

17 A couple of hands. We'll come to the front and then
18 we'll go to the gentleman in the back. No. 27.

19 PANELIST NO. 27: No. 27, Your Honor. May I
20 approach?

21 THE COURT: You may.

22 (At sidebar on the record.)

23 THE COURT: Thank you. I'll ask you to speak into
24 this microphone, please.

25 PANELIST NO. 27: Okay. No. 27. I'm current

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1 employed at the Department of Homeland Security at the ICE
2 Detention Facility. I'm not a law enforcement officer. I
3 manage the contract for the facility for the transportation
4 and security officers. I just basically make sure the
5 detainees are cared for, their health and welfare, the
6 detainees at the facility.

7 THE COURT: Are you a certified law enforcement
8 officer?

9 PANELIST NO. 27: Not exactly. I'm covered under law
10 enforcement coverage, but I don't carry a badge. I don't have
11 a weapon.

12 THE COURT: Okay.

13 PANELIST NO. 27: I'm unarmed.

14 THE COURT: Thank you, sir.

15 (End of discussion at sidebar.)

16 THE COURT: And the gentleman on my right, No. 95.

17 PANELIST NO. 95: As previously stated, I'm an
18 officer with the Arizona Department of Corrections.

19 THE COURT: And you did. Thank you very much.

20 Any other current employment in law enforcement?

21 Okay. Prior employment in law enforcement?

22 Okay. Let's start with 133. Where is our
23 microphone?

24 PANELIST NO. 133: I was employed 30 -- well, I'm
25 sorry -- 20 years with the Aurora Colorado Police Department.

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1 THE COURT: How long have you been retired from the
2 police department?

3 PANELIST NO. 133: Just about two years now.

4 THE COURT: And what was your job when you worked for
5 the Aurora Police Department?

6 PANELIST NO. 133: I was a commissioned officer. The
7 last 17 years I was a felony filing detective.

8 THE COURT: Thank you very much, sir.

9 Okay. We'll go over to No. 62.

10 PANELIST NO. 62: I worked for the Transportation
11 Security Administration from 2002 to 2007 at Sky Harbor
12 Airport.

13 THE COURT: Thank you, sir.

14 Anyone else with prior law enforcement experience?

15 Ladies and gentlemen, witnesses of different sexual
16 orientations may testify in this case. Would an individual's
17 sexual orientation affect your ability to fairly and
18 impartially consider that person's testimony?

19 I see no hands. Thank you.

20 And that leads me to another important question. In
21 deciding the facts of this case, the jury will be required to
22 evaluate the testimony of each witness for both accuracy and
23 truthfulness. It is very important that every witness has the
24 same opportunity to convince you that their testimony is the
25 accurate and truthful testimony.

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1 And one of the things that we did in the
2 questionnaires was to ask if you knew any of the people who
3 were witnesses in this case, because people that you know, you
4 likely have formed some opinion about whether they're people
5 that are honest, whether they're people that have a good
6 memory or a bad memory, whether they're the kind of people
7 that can accurately relate things that happened in the past or
8 are forgetful of details or perhaps exaggerate their details.

9 And so we make sure in a trial that everyone who
10 comes to the witness stand is someone you will be meeting for
11 the first time when they testify.

12 And presumably, it is through their testimony, their
13 direct and cross-examination, that you decide whether that's
14 the witness that is giving the most accurate and truthful
15 version of events that different witnesses may testify about
16 differently.

17 And so the question I'm going to ask you is whether
18 you'll be able to judge each witness's testimony by applying
19 the same standards or same rules for accuracy and
20 truthfulness. And that's a hard question to answer in the
21 abstract, so I'm going to give you a couple of examples to
22 think about.

23 In this case there will be many witnesses who are
24 employed in law enforcement. There will be many who are not.
25 Many who are civilians.

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1 Would you give more weight or less weight to the
2 testimony of a law enforcement officer than you would give to
3 the weight of a non-law enforcement officer based solely on
4 the fact that one of them is employed in law enforcement and
5 the other is not?

6 Another possible example that you read about in your
7 questionnaire that there may be people in this trial who
8 testify that are of the Muslim faith and people who testify
9 that are of some other faith.

10 Would you give more weight or less weight to the
11 testimony of a witness because of their religious beliefs than
12 you would to someone who held different religious beliefs?

13 So is there anyone -- just using those two
14 examples -- who thinks that they will not be able to judge the
15 testimony of each witness who comes before you to testify at
16 this trial applying the same standards for accuracy and
17 truthfulness.

18 We'll start with No. 128.

19 PANELIST NO. 128: May I approach?

20 THE COURT: Yes, you may.

21 (AT sidebar on the record.)

22 THE COURT: I'm going to ask you to speak into this
23 microphone as soon as the lawyers get here. Go ahead.

24 PANELIST NO. 128: My issue is if it's a female
25 Muslim, since they cover their face, I'm --

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1 THE COURT: Oh, you're concerned if you can't see the
2 witness?

3 PANELIST NO. 128: Yes.

4 THE COURT: That's a fair question. Are there any
5 witnesses who will not be able to be seen?

6 MR. KOEHLER: No.

7 THE COURT: Okay. Does that satisfy you?

8 PANELIST NO. 128: Yes.

9 THE COURT: Okay. That was easy. Thank you very
10 much.

11 (End of discussion at sidebar.)

12 THE COURT: Do you mind if I relate that to the rest
13 of the jurors?

14 PANELIST NO. 128: No, I don't mind.

15 THE COURT: Because it was something that I hadn't
16 thought of. And what juror No. 28 raised at the sidebar was
17 that she was concerned that if there was a female who
18 testified that was a Muslim that may wished to have her face
19 covered, that that might affect the ability of the juror to
20 assess their credibility.

21 And I think that's a legitimate concern, but I have
22 been assured by both sides that there will be no witnesses who
23 testify during this trial that will be attempting to obscure
24 their faces in any way.

25 So is there anyone who thinks that they might have a

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1 bias that would cause them to either believe or disbelieve a
2 witness based solely -- not even before you met them --
3 because of the nature of their employment, the nature of their
4 religion, the nature of their sexual orientation?

5 There's a hand in the back. Juror No. 95.

6 PANELIST NO. 95: May I approach?

7 THE COURT: Yes.

8 (At sidebar on the record.)

9 THE COURT: I'm going to ask you to speak into this
10 microphone as soon as one more lawyer gets here. Go ahead.

11 PANELIST NO. 95: Working in the field of
12 corrections, being surrounded by just officers and inmates,
13 I'm more inclined to accept the word -- sorry -- accept the
14 word of a state employee over that of anybody else around me
15 just because it has been engrained in me on everyday worklife.

16 THE COURT: Well, I understand that and that inmates
17 kind of --

18 PANELIST NO. 95: And I know inmates are different
19 than other people.

20 THE COURT: But you are concerned because of your
21 training?

22 PANELIST NO. 95: Right.

23 THE COURT: That that might cause you to believe law
24 enforcement over anybody else?

25 PANELIST NO. 95: Yes.

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1 THE COURT: Okay. Is there any objection to excusing
2 No. 95?

3 MR. MAYNARD: No.

4 MR. KOEHLER: No.

5 THE COURT: Thank you very much. Juror 95, you are
6 excused.

7 (End of discussion at sidebar.)

8 THE COURT: No. 95 is excused.

9 Were there any other hands?

10 Thank you very much.

11 Do any of the prospective jurors hold the belief that
12 Islam -- and that is Muslims, not Islamic State or some
13 organization -- but Islam, the religion, endorses violence to
14 a greater or lesser extent than other religions?

15 No. 10.

16 PANELIST NO. 10: May I approach?

17 THE COURT: Yes.

18 (At sidebar on the record.)

19 PANELIST NO. 10: I guess I actually do because of
20 the fact that there are so many things that are going on. I
21 do believe that there are quite a few of the Muslim people
22 that feel that it's -- that it's -- that it -- that they are
23 allowed to use harsher types of violence.

24 THE COURT: This question, obviously, there are
25 individuals who feel that way. This question really only goes

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1 to whether you think that the religion.

2 PANELIST NO. 10: Well, I think that there is part of
3 that religion that does.

4 THE COURT: Okay.

5 PANELIST NO. 10: Even though it's not maybe that the
6 whole religion, but I believe that maybe part of that religion
7 does. So that makes it a little iffy and I don't know if I
8 can be fair in looking at it the more I think about it.

9 THE COURT: Is there any objection to excusing No.
10 10?

11 MR. MAYNARD: No.

12 MR. KOEHLER: No.

13 THE COURT: Thank you very much for your candor and
14 you are excused No. 10.

15 (End of discussion at sidebar.)

16 THE COURT: No. 10 is excused.

17 Were there any other hands?

18 Do any of you have any negative feelings or negative
19 opinions about Muslims generally?

20 I see no hands. Thank you.

21 Do any of the prospective jurors have any specific
22 problems with concentration or dealing with stress or
23 pressure?

24 I see no hands. Thank you.

25 Ladies and gentlemen, in deciding the facts of this case,

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1 you will be -- well, in reaching a verdict in this case, you
2 will be required to decide the facts and then you will be
3 required to apply the law.

4 I will give you what the law is as it applies to the
5 charges in this case in written instructions, written
6 instructions that will be provided to you, but which I will
7 also read out loud to you in open court.

8 I want to know whether any of you believe you would be
9 unable to follow the law that I will provide to you in these
10 instructions, disregarding your own notions or ideas about
11 what the law is or should be?

12 I see no hands.

13 If selected as a juror on this case, would any of you be
14 either unable or unwilling to render a verdict and base that
15 verdict solely on the evidence that will be presented at
16 trial?

17 I see no hands.

18 The law requires the government to prove the defendant
19 guilty beyond a reasonable doubt. The defendant is presumed
20 by law to be innocent. This means the defendant is not
21 required to prove his innocence or to produce any evidence.

22 A defendant in a criminal case has a constitutional right
23 not to testify. The exercise of that right cannot be
24 considered by the jury in determining guilt or innocence.

25 Is there anyone who does not understand these principles

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1 of law that I have just stated?

2 Do any of you disagree with them or think they should not
3 be the law?

4 And there were no hands in response to those two
5 questions.

6 The presumption of innocence and the government's
7 requirement to prove guilt beyond a reasonable doubt are
8 probably the two most important things that the jury needs to
9 be mindful of during the course of the trial.

10 I have told you that the government has charged the
11 defendant with five different crimes and I described them to
12 you.

13 I told you that the defendant has pled not guilty. No
14 evidence has been presented in this case yet. That means the
15 defendant is presumed innocent and that presumption of
16 innocence must remain with the defendant until all the
17 evidence is presented in the case, the jury deliberates, and
18 only then could the jury decide that the presumption is lost
19 and that the defendant is guilty upon determining that the
20 government has proved guilt beyond a reasonable doubt.

21 Do any of you feel that you cannot honor the presumption
22 of innocence and require the government to prove guilt beyond
23 a reasonable doubt?

24 I see no hands. Thank you.

25 Okay. I'm going to stop talking for a little while and,

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1 instead, I'm going to ask the prospective jurors to talk a
2 little bit about themselves. I'm going to bring up this easel
3 that's blank, but it's not going to be for long.

4 These are just some general questions about yourselves.
5 And I'm going to add a couple of additional questions. But
6 I'm not going to ask you to remember what they are. I will
7 ask them of you as you answer these questions in turn.

8 So let's give the microphone to Juror No. 1.

9 And we're going to do the front and then we'll do one side
10 and then we'll do the other. We're not going to try to go in
11 numerical order. It will be too complicated because we have
12 all these people in the 130s in the front.

13 So, No. 1, could you please tell us a little bit about
14 yourself.

15 PANELIST NO. 1: I'm married. I have two children.
16 How do you want the question of employment answered?

17 THE COURT: I'm sorry?

18 PANELIST NO. 1: What type of response are you
19 looking for in the employment?

20 THE COURT: Tell us what you do for a living. You
21 don't have to tell us who you work for but what your
22 occupation or profession is; what you do for a living?

23 PANELIST NO. 1: Currently, I find compliance to
24 aviation regulations.

25 My spouse is a school psychologist. I have no prior

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1 military service and I was on a civil jury case.

2 THE COURT: Was that here in federal court or was it
3 in state court?

4 PANELIST NO. 1: It was in county court.

5 THE COURT: Thank you. Two other questions. What is
6 the highest formal education level you have completed?

7 PANELIST NO. 1: I have a bachelor's degree.

8 THE COURT: And in what field?

9 PANELIST NO. 1: Computer science.

10 THE COURT: And has your spouse, children, or
11 grandchildren served in any branch of the military?

12 PANELIST NO. 1: No.

13 THE COURT: Thank you. I think those were the only
14 two supplemental questions. Okay. Thank you.

15 No. 2.

16 PANELIST NO. 2: I'm divorced. No children. I don't
17 have a job right now. I'm in college full time. Prior
18 service, veteran, combat veteran. And I have never done jury
19 service. This is my first time.

20 THE COURT: Did your former spouse serve in the
21 military?

22 PANELIST NO. 2: No, ma'am.

23 THE COURT: Okay. Thank you. Oh, and you're in
24 school right now studying for a bachelor's degree; is that
25 correct?

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1 PANELIST NO. 2: Correct.

2 THE COURT: Remind us again. In what field?

3 PANELIST NO. 2: I'm a senior right now. I lack nine
4 more months in Organizational Security Management Degree,
5 emphasis Homeland Security.

6 THE COURT: Thank you. No. 3.

7 PANELIST NO. 3: No. 3. I am divorced with two
8 children. I work in information technology for healthcare --
9 in healthcare. I was in the military. I served in the Air
10 Force. And I do not have any prior jury.

11 THE COURT: When you served in the Air Force, for how
12 many years and what was your rank upon discharge?

13 PANELIST NO. 3: Upon discharge I was an E-4 and five
14 years.

15 THE COURT: Did you serve in any countries other than
16 the United States?

17 PANELIST NO. 3: Yes.

18 THE COURT: Where?

19 PANELIST NO. 3: In Germany.

20 THE COURT: And do either of your children -- are
21 either of your children in the military?

22 PANELIST NO. 3: No.

23 THE COURT: And what is your highest level of formal
24 education?

25 PANELIST NO. 3: High school. Went directly into the

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1 military after that.

2 THE COURT: Thank you. No. 4.

3 PANELIST NO. 4: I am married. I have two children.
4 I am a private specialist for a semiconductor company. My
5 spouse is retired. My son was in the military. He was a
6 Marine. And I have had prior jury service, both civil and
7 criminal.

8 THE COURT: And the criminal case?

9 PANELIST NO. 4: It was a murder trial.

10 THE COURT: And what was the jury's verdict?

11 PANELIST NO. 4: Guilty.

12 THE COURT: And what is your highest level of formal
13 education?

14 PANELIST NO. 4: Little college but no degree.

15 THE COURT: Thank you very much.

16 No. 5.

17 PANELIST NO. 5: Single. I have two kids under the
18 age of 18; my daughter is 16 and my son is 22-and-a-half
19 months. I currently work as a subrogation specialist. No
20 military experience and no prior jury service.

21 THE COURT: And what is your highest level of formal
22 education?

23 PANELIST NO. 5: Some technical school but no degree.

24 THE COURT: Thank you very much. No. 7.

25 PANELIST NO. 7: I'm married. Three children all

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1 over the age of 18. My wife and I are both retired. I was in
2 the Army. I attained the rank of E-5. I was a Russian
3 linguist and I was stationed in Turkey. And I have no prior
4 jury service.

5 THE COURT: What did you do before you retired and
6 after you got out of the service?

7 PANELIST NO. 7: I was involved in the family
8 furniture business. I also was self-employed for a while as
9 an accounting consultant. And I -- after I retired, I spent
10 some time driving a medical van.

11 THE COURT: And are any of your children,
12 grandchildren, or was your spouse in the military also?

13 PANELIST NO. 7: No.

14 THE COURT: And what did your wife do before she
15 retired?

16 PANELIST NO. 7: She was also in the furniture
17 business.

18 THE COURT: And your highest level of formal
19 education?

20 PANELIST NO. 7: Bachelor of science.

21 THE COURT: In what field?

22 PANELIST NO. 7: Management information systems.

23 THE COURT: Thank you very much. No. 8.

24 PANELIST NO. 8: I'm divorced. I have two adult
25 children. I work as an examiner for a title company. I have

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1 no prior military service. My son is currently a Second
2 Lieutenant in the Army. I served on a jury. It was through
3 the Superior Court. It was a DUI case.

4 THE COURT: What was the verdict?

5 PANELIST NO. 9: Guilty.

6 THE COURT: What is your highest level of formal
7 education?

8 PANELIST NO. 9: I have a bachelor's in business
9 management.

10 THE COURT: Thank you very much.

11 Let's give the microphone to No. 19.

12 PANELIST NO. 19: I'm unmarried. I have one child.

13 THE COURT: Could you hold the microphone closer?

14 PANELIST NO. 19: No. 19. I'm unmarried. One child.
15 I'm retired. I have no military service. And I have no prior
16 jury service.

17 THE COURT: What did you do before you retired?

18 PANELIST NO. 19: I was an executive assistant.

19 THE COURT: What is your highest level of formal
20 education?

21 PANELIST NO. 19: Some college. No degree.

22 THE COURT: And has your -- you said you had one
23 child. Does that child have any military service?

24 PANELIST NO. 19: No.

25 THE COURT: Thank you very much. No. 18.

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1 PANELIST NO. 18: No. 18. I'm married. I have three
2 biological children, four stepchildren; ages 16, 16, 14, 13,
3 13, 11, and 8. I'm currently a student. My husband, he works
4 with windows -- building windows. No military service and I
5 have never served on a jury.

6 THE COURT: And what are you studying?

7 PANELIST NO. 18: I'm studying my associate's in
8 science for forensics and now I'm studying forensic
9 psychologist.

10 THE COURT: And does your husband have any military
11 service?

12 PANELIST NO. 18: No, he does not.

13 THE COURT: Thank you very much. No. 15.

14 PANELIST NO. 15: No. 15. I'm married. I have two
15 kids, 5 and 7. I'm a stay-at-home mom. My husband is an
16 engineering technician for a computer company. Neither of us
17 have military service. And I have no prior jury service. And
18 I have an associate's degree in business.

19 THE COURT: Thank you. No. 13.

20 PANELIST NO. 13: No. 13. Single. No children. I'm
21 a claims analyst for a financial institution. No military
22 service. No prior jury service. And I have an associate's in
23 accounting.

24 THE COURT: Anybody in the military?

25 PANELIST NO. 13: No.

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1 THE COURT: Thank you. No. 12.

2 PANELIST NO. 12: Juror 12. I'm single. No
3 children. Currently unemployed. No military service. No
4 jury service. I have a bachelor's in information
5 technologist.

6 THE COURT: No. 11.

7 PANELIST NO. 11: I'm married. Two adult children.
8 I'm a retired librarian. My spouse is an R.N. Myself and --
9 I have no family members that are in the military. Two
10 different juries; one for DUI and one for a murder trial with
11 a hung jury for the one and the other one I was just an
12 alternate, so they were supposed to get us the verdict but I
13 don't know what it was.

14 THE COURT: Which one was the hung jury?

15 PANELIST NO. 11: The hung jury was for the DUI
16 trial.

17 THE COURT: And for the other you were the alternate
18 and did not deliberate?

19 PANELIST NO. 11: Correct.

20 THE COURT: And military service?

21 PANELIST NO. 11: None for me or my spouse.

22 THE COURT: Okay. Thank you. No. 9.

23 PANELIST NO. 9: I'm married and we have two adult
24 children. I'm a registered nurse but retired. My husband is
25 also retired. He was a steelworker in Indiana. Then we moved

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1 to Arizona. And then he worked for Gilbert school systems.
2 And he doesn't have any military service and neither do I. I
3 did have -- let's see. We were -- I was on a criminal trial
4 and it was guilty for Attempted Murder. And neither of us
5 have any military service.

6 THE COURT: And your highest level of formal
7 education?

8 PANELIST NO. 9: It was a registered nurse.

9 THE COURT: Okay. Thank you very much.

10 I want to go back to No. 8 for just a moment based
11 on -- you had something in your questionnaire that I wanted to
12 cover with you while -- before we moved too far off.

13 You stated in your questionnaire that your employer
14 only pays for ten days of jury duty and that the remainder
15 would be unpaid or paid time off and that you might have
16 enough paid time off.

17 This is what I want to say to you that it would be
18 very generous of you to use your paid time off to serve as a
19 juror, but we certainly do not want you to use your vacation
20 time unless you have so much that you don't need it for
21 vacationing.

22 PANELIST NO. 8: I always need vacation.

23 THE COURT: To serve as a juror.

24 And obviously, we are going to have more than ten
25 trial days. And we do not want to create a financial hardship

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1 on anyone. So I didn't want to leave this subject without
2 hearing what your feelings are about serving either in an
3 unpaid capacity or using time that's paid that you do not have
4 to use.

5 PANELIST NO. 8: I want to do my duty.

6 THE COURT: Okay.

7 PANELIST NO. 8: I don't mind serving. I probably
8 have enough PTO time to do it.

9 THE COURT: Okay. Well, we really appreciate that.
10 Thank you very much.

11 Okay. Now, let's -- since the microphone is all the
12 way down there, why don't we go to No. 141 and then we'll come
13 back this way.

14 PANELIST NO. 141: I'm 141. I'm single. I have one
15 child, four months. I am a new car inspector for Union
16 Pacific. And I have no military service and I have never been
17 on a jury.

18 THE COURT: And what is your highest level of formal
19 education?

20 PANELIST NO. 141: I have my associate's degree.

21 THE COURT: And in what field?

22 PANELIST NO. 141: Recording engineering.

23 THE COURT: Thank you very much. No. 140.

24 PANELIST NO. 140: No. 140. I'm married. I have
25 four children under the age of 18. I currently work in the

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1 Infomatics Department for nurses and doctors. My spouse is an
2 R.N. I had a two-year stint in the Philippines, Navy U.S.
3 Reserve, as a medic. No prior jury service.

4 THE COURT: What is your highest level of formal
5 education?

6 PANELIST NO. 140: Six months away from my master's.

7 THE COURT: In what field?

8 PANELIST NO. 140: Nursing.

9 THE COURT: Thank you very much.

10 PANELIST NO. 139: Juror 139. I'm married. I have
11 three adult children. High school, no college. I'm not
12 working. I'm a homemaker. I used to time running events. He
13 works for a large company in research and development.
14 Neither of us were in the military. And I have not served on
15 a jury.

16 THE COURT: And are any of your children in the
17 military?

18 PANELIST NO. 139: No.

19 THE COURT: Okay, thank you very much.

20 PANELIST NO. 137: I'm juror 137. I'm married. I
21 have two adult children. I'm a retired teacher. My husband
22 is a retired nurse. He has had prior military service in both
23 the Air Force and the Army. And I have had no prior jury
24 service. My highest degree of education is a master's degree
25 in education. My husband has a master's in nursing. I think

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1 that did it.

2 THE COURT: Thank you very much. No. 136.

3 PANELIST NO. 136: I'm juror 136. I'm married.
4 Three children; one is 17. I'm employed in IT. My spouse is
5 a homemaker. I'm a retired Air Force Major. Do you want me
6 to do the laundry list of where I have been?

7 THE COURT: Outside the United States.

8 PANELIST NO. 136: Korea, Singapore, Philippines,
9 Germany, Italy, Afghanistan, Qatar, Bahrain, and Saudia
10 Arabia.

11 Do I get a star for that, knowing all of those?

12 I have no prior jury experience and I have my MBA.

13 THE COURT: In what field?

14 PANELIST NO. 136: Business.

15 THE COURT: Thank you.

16 PANELIST NO. 135: I'm Juror 135. I'm single. I
17 have a five-year-old. I'm a fraud detection analyst. No
18 military service and I was dismissed from my last attempted
19 prior jury service, I guess. My highest level of education is
20 college and I'm still trying to obtain my degree.

21 THE COURT: You are still working on it. And what's
22 your major?

23 PANELIST NO. 135: I want to be an ultrasound
24 technician.

25 THE COURT: Thank you very much.

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1 PANELIST NO. 134: No. 134. I'm divorced. Two adult
2 children. I'm a registered nurse. I served in the Air Force
3 as a medic. I was on one prior jury. It was a DUI. I think
4 it was about six or seven years ago. My highest degree is a
5 bachelor's of science. And none of my relatives have been in
6 the military.

7 THE COURT: Okay. Thank you very much. No. 133.

8 PANELIST NO. 133: Yes. I have been married 40
9 years. I have two grown children. My son served six years in
10 Army Special Forces. I currently work at the Home Depot. I
11 have a master's in public administration. My wife is a
12 retired lab tech. I served in the Air Force as a Staff
13 Sergeant, worked on aircraft avionics and then became a
14 captain and worked in space operations.

15 The oversea service I did was mostly Europe but some
16 in Africa, Ethiopia, the Congo. The only jury service I did,
17 oddly enough, was a court-martial panel in the Air Force. I
18 found a guy guilty of child abuse.

19 THE COURT: Thank you very much. Juror No. 132.

20 PANELIST NO. 132: Juror 132. I'm divorced for over
21 20 years. No children. I'm a retired insurance claims
22 examiner. As a matter of fact, I was in your courtroom about
23 20 years ago. No military service. And I have served on a
24 jury twice, both criminal cases; one was a conviction, one was
25 a hung jury.

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1 THE COURT: And the conviction was for what crime, do
2 you recall?

3 PANELIST NO. 132: Aggravated driving.

4 THE COURT: Aggravated DUI?

5 PANELIST NO. 132: Yes.

6 THE COURT: Thank you. Highest level of formal
7 education?

8 PANELIST NO. 132: Bachelor's degree in political
9 science.

10 THE COURT: Thank you very much. Juror No. 131.

11 PANELIST NO. 131: I'm Juror 131. I've been in a
12 domestic partnership for seven years. I don't have any
13 children. I work in the Department of Public Health with
14 Maricopa County. My spouse is employed as an academic advisor
15 for an out-of-state University. I don't have any military
16 service, no prior jury service, and I have completed practical
17 nursing through a technical school.

18 THE COURT: Thank you very much. And No. 126.

19 PANELIST NO. 126: No. 126. Yes. I'm married. My
20 wife and I hit our 50th year last month.

21 THE COURT: Congratulations.

22 PANELIST NO. 126: We have three adult children and
23 we have been employed for years. I had two different jobs
24 most of my life; one was a Department of Defense for my last
25 18 years with the Defense Contract Administrative Services as

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1 a Quality Assurance Representative in Wisconsin. And prior to
2 that I was with the Department of Army for about five years as
3 an Administrator in Reserve Centers. And prior to that I was
4 with the Post Office a couple years. And I also spent almost
5 29 years along the way in Army Reserves.

6 And I had been in -- I forget 10 or 11 different
7 units. My highest rank was Sergeant Major in the Intel
8 Department of Madison Group Headquarters and Command Sergeant
9 Major Acting. And I retired in one job in '97 and the other
10 in '98. My spouse has worked part-time while having children
11 and locations and duties, it would take forever on the
12 military service.

13 THE COURT: We do have forever.

14 PANELIST NO. 126: Sometimes I do. But anyway, prior
15 jury service, I was in two of them in Wisconsin; one was a car
16 accident, a lady had her neck hurt, and the other was a child
17 being molested.

18 THE COURT: Were the verdicts guilty or not guilty or
19 a mix of the two?

20 PANELIST NO. 126: Guilty in both -- no. No. No.
21 Wait. No. The child molester was guilty and the lady that
22 said she got hit in the neck by a car accident, the last thing
23 they saw was a -- that we saw was a movie showing that she had
24 been playing golf the day before and tennis and no one was
25 hurt and she, you know, just lied.

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1 THE COURT: What is your highest level of formal
2 education?

3 PANELIST NO. 126: I have a bachelor's and a whole
4 lot of credits toward my master's.

5 THE COURT: In what field?

6 PANELIST NO. 126: Well, I could get equivalency in
7 management, but I didn't want to pay the 1500 bucks for it.
8 And I have hundreds and hundreds of credit hours in the
9 Department of Defense and Department of the Army and some
10 other ones.

11 THE COURT: Thank you, sir. No. 128.

12 PANELIST NO. 128: I'm No. 128. I'm single. No
13 children. I'm currently unemployed though I am trained to
14 repair so, I do some freelance repairs for my family
15 computers. I personally have not served in the military, but
16 I am a Navy brat from 20 years. And my brother was a
17 reservist. Prior service, I was called four times, never was
18 chosen. My highest education is a dual AAS in Cysco and
19 Microsoft.

20 THE COURT: Okay. Thank you very much. And in the
21 back, let's start in the first row with No. 29.

22 PANELIST NO. 29: I'm married. I have four children;
23 21, 18, and twins that are 13. I work part-time. My husband
24 is a superintendent. We have no military service and no prior
25 jury service.

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1 THE COURT: Any military service among your children?

2 PANELIST NO. 29: No.

3 THE COURT: And what is your highest level of formal
4 education?

5 PANELIST NO. 29: High school diploma.

6 THE COURT: Thank you very much.

7 PANELIST NO. 28: I'm No. 28. I'm married with two
8 grown children. My wife and I are both retired. Neither of
9 us has military service or jury service.

10 THE COURT: Your highest level of formal education?

11 PANELIST NO. 28: One year of college.

12 THE COURT: Thank you very much.

13 PANELIST NO. 27: Juror 27. I'm divorced. Three
14 children. I work with contracts and customer service. I was
15 in the Army for three years back in 1980. My daughter also
16 served in the Army. And I have no prior jury service.

17 THE COURT: And your highest level of formal
18 education?

19 PANELIST NO. 27: Technical schools.

20 THE COURT: In what area?

21 PANELIST NO. 27: In contracting.

22 THE COURT: Thank you very much.

23 PANELIST NO. 26: No. 26. Married. Two adult
24 children. Retired public school teacher. My husband is a
25 retired copper miner. He was a Marine. And I have had no

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1 prior jury service.

2 THE COURT: What is your highest level of formal
3 education?

4 PANELIST NO. 26: Master's of education.

5 THE COURT: Thank you very much.

6 PANELIST NO. 25: My name is No. 25.

7 THE COURT: For today only.

8 PANELIST NO. 25: I am married. My wife of eight
9 years and I have a one-year-old. And of the three of us,
10 there is no military service record. I'm currently employed
11 as a medical interpreter at three Valley hospitals; full time
12 at one, parttime at one, and on-call at one. My wife is an
13 R.N. No prior jury service. And I currently have my
14 bachelor's degree in Spanish and I'm halfway through my
15 pursuit to my master's degree in the same.

16 THE COURT: Thank you very much.

17 PANELIST NO. 24: Juror 24. I'm happily married.
18 Three adult children. I'm a commercial vehicle underwriter.
19 My wife was formerly in real estate. I have a military
20 background. No prior jury service. Bachelor's in a French
21 and Business. Prior hospitalization for pulmonary embolisms.

22 THE COURT: I have your questionnaire and you did
23 indicate that you have a medical situation where you are not
24 able to sit for long periods of time.

25 PANELIST NO. 24: I'm concerned about that, yes,

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1 absolutely.

2 THE COURT: If you are selected as a juror in this
3 case and you are free to stand up and stretch your legs, would
4 that be -- and you won't be sitting on a hard bench. I don't
5 know if that makes any difference.

6 PANELIST NO. 24: I would not like to experience the
7 hospitalization again, so.

8 THE COURT: Well, this is a -- No. 24, I really have
9 to leave this to you whether you think you could serve with
10 some accommodation or whether your concern is that you
11 would -- that this could provoke another hospitalization.

12 PANELIST NO. 24: That's my concern.

13 THE COURT: Then I will excuse you from serving as a
14 trial juror. I don't want you to be sitting and worrying
15 about that when you need to be sitting and concentrating on
16 the evidence.

17 Thank you very much, sir, and you can be excused.

18 PANELIST NO. 23: Juror 23. Recently widowed. Five
19 children. Retired from the kosher food business. No military
20 service. Never served on a jury.

21 THE COURT: Are any of your children or grandchildren
22 in the military or have served in the military?

23 PANELIST NO. 23: No.

24 THE COURT: And what is your highest level of formal
25 education?

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1 PANELIST NO. 23: Sorry?

2 THE COURT: Your highest level of formal education?

3 PANELIST NO. 23: One year of college.

4 THE COURT: Thank you very much.

5 PANELIST NO. 22: No. 22. I'm married. No children.

6 I'm a surgical tech. And my spouse is in human resources. No

7 military service. And I was on a jury for a molestation case

8 that was a hung jury. And I have an AA in science.

9 THE COURT: Thank you very much.

10 PANELIST NO. 21: Juror 21. Married. Three grown

11 children. I'm an office specialist at an elementary

12 preschool. My husband is the Director of Open Spaces for

13 Pinal County. No military. And no prior jury service. High

14 school diploma.

15 THE COURT: Thank you very much.

16 PANELIST NO. 20: Married. Two adult children --

17 THE COURT: Tell me your juror number.

18 PANELIST NO. 20: I'm sorry. 20.

19 THE COURT: Thank you very much.

20 PANELIST NO. 20: Married. Two adult children. One

21 grandchild. Currently employed as a school counselor. My

22 husband is retired. His military service was in the Army. He

23 was a Major. He was an infantry officer. We were in Germany

24 and he was in England. Is that what you meant? Okay.

25 It was all him. Well, I was in Germany. And I have

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1 never been selected to serve on a jury. And my highest degree
2 is -- it's called an education specialist. It's a year beyond
3 a master's.

4 THE COURT: Thank you very much. No. 41.

5 PANELIST NO. 41: No. 41. I'm not married. No
6 children. Part-time cashier. No prior military service.
7 Never been -- had to go to jury service -- jury duty. My
8 highest education is an associate's in applied science.

9 THE COURT: And no military?

10 PANELIST NO. 41: Correct.

11 THE COURT: Thank you very much.

12 PANELIST NO. 42: Juror 42. I'm married. I have one
13 grown child. I'm a retired meat cutter. My husband works in
14 the golf industry. There is no military experience. I did
15 serve on a DUI jury in Colorado. And high school, no college.

16 THE COURT: The DUI, guilty or not guilty?

17 PANELIST NO. 42: Not guilty.

18 THE COURT: Thank you very much. No. 43.

19 PANELIST NO. 43: No. 43. I currently work for an
20 assisted living community driving residents to their doctors'
21 appointments. My husband is a delivery driver delivering
22 commercial copiers throughout the state. We have no military
23 service. I served on a criminal DUI case. The verdict was
24 guilty. And I have a bachelor of science in justice studies.

25 THE COURT: Thank you very much.

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1 PANELIST NO. 44: I'm Juror No. 44. I'm married. I
2 have a two-and-a-half year old daughter. I'm a physical
3 therapist. My wife is in medical billing. I was in the Air
4 Force for four years. Overseas I was in Korea and Cypress.
5 I've never had jury service and I have a doctorate in physical
6 therapy.

7 THE COURT: Thank you very much.

8 PANELIST NO. 45: Juror No. 45. I'm single.
9 Widowed. I have an adult daughter. I'm currently employed as
10 an R.N. Director of Acute Care Infomatics for a healthcare
11 organization. I have no military service. My daughter has
12 none as well. I have no prior jury service. My highest level
13 degree was a master's of science in nursing.

14 THE COURT: Thank you.

15 PANELIST NO. 46: Juror 46. I'm married. I have two
16 children, two and four. I'm a social worker. My husband is
17 an accountant and a real estate agent. No military service
18 for either of us. No prior jury service. And my highest
19 level of education is a bachelor of arts in sociology and a
20 minor in psychology.

21 THE COURT: Thank you.

22 PANELIST NO. 44: I'm No. 44. I'm not married. I
23 have no children. I work as a business analyst and we develop
24 tools at a financial office. And I have no military service
25 experience and no jury service.

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1 THE COURT: Highest level of education?

2 PANELIST NO. 44: A bachelor's in finance.

3 THE COURT: Thank you very much.

4 PANELIST NO. 49: Juror No. 49. I'm single. No
5 children. Currently unemployed. No military service. No
6 jury duty -- prior jury duty service. And I have my
7 bachelor's in communication.

8 THE COURT: And when you're employed, what is it that
9 you do?

10 PANELIST NO. 49: My last job was a stocker at
11 Target.

12 THE COURT: Thank you very much.

13 PANELIST NO. 69: Juror No. 69. I'm married. I have
14 two stepchildren; one is 15, the other is 21. I'm an account
15 manager for a consulting company that specializes in employee
16 benefits and wellness. And my husband is right now a
17 stay-at-home dad. No military service with any of us. And no
18 prior jury service. And I have my associate's in business
19 administration.

20 THE COURT: Thank you.

21 PANELIST NO. 68: I'm No. 68. I'm single. No
22 children. I'm a sales manager for Merchant Services Group for
23 a major bank. I don't have military service. My dad is
24 retired Navy Senior Chief. No prior jury service. And my
25 education is a couple years of college but no degree.

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1 THE COURT: Thank you.

2 Oh, wait a second. Could you go back to No. 69 for a
3 moment? And I wanted to inquire.

4 You had written in your questionnaire: This is peak
5 season for my work and I have a heavy caseload.

6 PANELIST NO. 69: I'm the only account manager. It's
7 a small business, family-owned business, and I'm the only
8 account manager. We deal with benefits for quite a few of the
9 school districts. And it's time for their bid openings,
10 meeting packets, and a lot of that is on me. So it's a really
11 hard time right now and I have got some people trying to
12 balance out what I do but I still would be working at night.

13 THE COURT: Thank you very much for that additional
14 information.

15 PANELIST NO. 67: I'm juror 67. I'm divorced but I
16 have been with my better half for 26 years. Between us we
17 have got four kids and 8 grandkids. Retired, medically
18 retired, I used to be a miner.

19 THE COURT: Highest level of formal education?

20 PANELIST NO. 67: Okay. I'm sorry. Tenth grade.
21 And then my other half, she's a high school graduate. I was
22 in the military scheduled for six years and I did two. And I
23 have had prior jury duty.

24 THE COURT: Criminal or civil cases?

25 PANELIST NO. 67: Criminal.

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1 THE COURT: And what were the charges and the
2 verdicts, if you recall?

3 PANELIST NO. 67: The charges was murder and they
4 both got convicted.

5 THE COURT: Thank you very much.

6 PANELIST NO. 66: I'm juror No. 66.

7 THE COURT: I think you may have switched it off.

8 PANELIST NO. 66: I'm juror 66. I'm a widower. I
9 have one grown son. I'm a civil engineer. I served in the
10 U.S. Army. No prior jury service. And my highest degree was
11 bachelor of science with majors in Physics and Mathematics.

12 THE COURT: Thank you, sir.

13 PANELIST NO. 64: I have been married 44 years. I
14 have two grown children. I'm self-employed. I run a decor
15 website out of my home. I am married to a 30-year Air Force
16 vet. And our family is drowning in military service. My
17 father and my father-in-law are both career military retired,
18 my brother-in-law, career military retired and my nephew is
19 Army Reserves. I served three years ago on a jury for
20 domestic abuse and found not guilty.

21 THE COURT: And your highest level of formal
22 education?

23 PANELIST NO. 64: I'm three years of college
24 education.

25 THE COURT: Thank you very much.

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1 PANELIST NO. 63: I'm juror No. 63. I am married.
2 Two adult children. And not me, not my children, not my
3 husband, nobody in military service. Currently not employed.
4 My husband is in aviation and aerospace. Never served in a
5 jury. And I have a doctorate in child psychology.

6 THE COURT: Thank you.

7 PANELIST NO. 62: Juror 62. I'm single. I have two
8 children, 8 and 10. They live with their mother. I'm
9 currently employed in data entry. I have no military service
10 but work in the TSA. I did receive the Federal Anti-Terrorism
11 Training. I have no prior jury service and I have a
12 bachelor's in telecommunications.

13 THE COURT: Thank you.

14 PANELIST NO. 61: I'm juror 61. I'm widowed. I have
15 two grown daughters. I'm semiretired. I do commissioned
16 artwork. Military service, I have none. My late husband was
17 a captain in the Air Force, a fighter pilot in Vietnam and in
18 South Korea. I have never been on a jury before. And I have
19 an associate's degree in commercial art.

20 THE COURT: Thank you very much.

21 PANELIST NO. 59: Juror No. 59. I am married and I
22 have two grown children. One married to a proudly serving
23 police officer in the Phoenix area. I have -- formally, I'm
24 retired right now but I was a 25-year federal employee. My
25 husband was a 20-year retiree of the Air Force. The job that

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1 he did there was in electronics. And even though it was top
2 secret, it was written up in the USA World News Report so I
3 guess I can talk about it.

4 It was airborne surveillance evidently. He -- after
5 he retired from that, he went to become a contractor. And in
6 that area he did go over into the Mid East. He was stationed
7 in Qatar and Saudia Arabia. He is retired now also. And I
8 have not had any prior jury selections. And my highest level
9 was one year of college.

10 THE COURT: And what type of work did you do for the
11 federal government?

12 PANELIST NO. 59: I was Chief of Prosthetics in the
13 VA system for three hospitals in Nebraska.

14 THE COURT: Thank you very much.

15 Would you give the microphone to the woman seated
16 behind you?

17 PANELIST NO. 86: Juror 86. I have been married 53
18 years. We have two grown children. I'm retired from
19 education. I was a middle school gifted and talented teacher
20 for impoverished students. My husband retired from labor
21 relations in Javea Highway. My son proudly served in the Army
22 and is currently serving as National Guard for Arizona. My
23 daughter served four years in the U.S. Air Force. I was in a
24 previous -- besides the grand jury that I mentioned -- the
25 previous criminal case was found innocent. It was a theft.

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1 THE COURT: Thank you.

2 PANELIST NO. 86: And I have a master's degree in
3 education.

4 THE COURT: Thank you very much.

5 I knew we were missing something but couldn't
6 remember what it was.

7 PANELIST NO. 87: I'm juror 87. I'm a widow. I have
8 no children. I'm retired from the State of Arizona but
9 currently work part-time as a clerk in a hospital giftshop. I
10 have one prior jury service for a DUI case and they were found
11 guilty. And my highest level education is high school.

12 THE COURT: And you had mentioned a medical problem
13 in your juror questionnaire. Do you believe that that would
14 interfere with your ability to serve?

15 PANELIST NO. 87: I think it could, yes.

16 THE COURT: Is this something where you just
17 occasionally have a problem that --

18 PANELIST NO. 87: Yes.

19 THE COURT: And you feel that this service for this
20 five-week period could be not good for your health?

21 PANELIST NO. 87: Yes, I do.

22 THE COURT: Okay. Juror 87, I will excuse you from
23 serving. Thank you very much.

24 PANELIST NO. 88: No. 88. I'm single. No children.
25 I'm employed as a registered nurse. My fiance was a retired

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1 Army colonel and I have prior jury service, two trials; one
2 for rape and one for murder. And they were both guilty. And
3 my highest education is a bachelor of science.

4 THE COURT: In what field?

5 PANELIST NO. 88: In health information management.

6 THE COURT: Thank you very much.

7 PANELIST NO. 89: I'm juror 89. I'm married. No
8 children. Both my husband and I work in manufacturing.
9 Neither he or I have ever been in the service. However, my
10 ex-husband was a Marine. And my brother is -- has done Navy
11 and is now in the Air Force. And I have never done jury duty.
12 And I'm a high school graduate.

13 THE COURT: I wanted to ask you about something that
14 you wrote in your questionnaire about that you provide
15 transportation for your husband to and from work each day.

16 PANELIST NO. 89: Yes.

17 THE COURT: And what -- is that timing incompatible
18 with jury service or is it something that you could take him
19 to work and pick him up and still serve?

20 PANELIST NO. 89: If it's like an 8:00 to 5:00 deal,
21 then yes, I could still serve.

22 THE COURT: Okay. It's like a 9:00 to 4:30 deal.

23 PANELIST NO. 89: That's even better.

24 THE COURT: Okay. Thank you very much.

25 PANELIST NO. 91: Juror No. 91. I'm married. Four

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1 kids. Youngest is 13. The rest are grown. I work in
2 maintenance for a school district and also in a metal
3 fabrication shop. My wife is in retail management. No
4 military service. Never been on a jury. And I have a
5 bachelor of science in forestry.

6 THE COURT: Thank you, sir.

7 PANELIST NO. 92: Juror 92. Married. Two grown
8 adults. My son is in the military, Army Reservist. And my
9 husband works for the aerospace industry. And I'm a freelance
10 consultant. Right now I'm not working. And three years of
11 college with no degree.

12 THE COURT: Thank you very much.

13 PANELIST NO. 93: I'm juror 93. I'm single. No
14 children. I'm a financial aid technician. No military
15 service. No prior jury service. And my highest level of
16 education is having an associate in fine arts and an associate
17 in evidence technology with two certificates for police
18 photography and fingerprint analysis.

19 THE COURT: Thank you very much.

20 PANELIST NO. 94: Juror 94. Married with four
21 children; ages one, three, six and thirteen. I work in
22 finance. My wife is a stay-at-home mother. No military
23 service for either. No jury service. Some college. No
24 degree.

25 THE COURT: Thank you very much.

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1 And for those of you that are watching the clock,
2 particularly since I said it's 9:00 to 4:30, we're going to
3 finish up with the back row and we're going to recess for the
4 day and you'll have to come back tomorrow to continue and
5 complete jury selection.

6 So just a few more minutes.

7 PANELIST NO. 111: Juror No. 111. Single. No
8 children. Salesman for a technology company. No military
9 service. No previous jury duty. And a bachelor's degree in
10 applied science.

11 THE COURT: Okay. Before you pass the microphone, in
12 your questionnaire you talked about a trip you had planned on
13 the 25th through the 28th of February.

14 PANELIST NO. 111: Correct. Yes.

15 THE COURT: Tell me a little bit more about that.

16 PANELIST NO. 111: My fiancée's brother is getting
17 married that weekend in Minnesota.

18 THE COURT: Oh. I think we need to excuse No. 111
19 because it's his fiancée's brother. If he doesn't show up at
20 the wedding, the family may not like him very much. Is there
21 any objection to excusing 111?

22 MR. KOEHLER: No, Your Honor.

23 MR. MAYNARD: No objection, Your Honor.

24 THE COURT: 111, you may be excused.

25 PANELIST NO. 110: Juror 110. Married 43 years. Two

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1 adult children, two daughters. I'm retired. I was in the
2 electrical trade for 45 years. My wife helped teach autistic
3 kids. Two years in the Marine Corps. No prior jury duty.
4 None of my children was in the service.

5 THE COURT: Your highest level of education?

6 PANELIST NO. 110: High school. And then I did a
7 four-year apprenticeship for the electrical trade.

8 THE COURT: And in your questionnaire you were
9 concerned about some doctor appointments that you have that
10 conflict with our trial schedule; is that right?

11 PANELIST NO. 110: I see a dermatologist. I had a
12 melanoma several years ago, so I'm on a six-month rotation
13 going in for checkups but it's not crucial, I mean.

14 THE COURT: We won't be in trial on Mondays. So is
15 it something that you could perhaps reschedule to a Monday if
16 it's in conflict?

17 PANELIST NO. 110: There's only certain days of the
18 week that my doctor is in there but I can reschedule if need
19 to.

20 THE COURT: Thank you. I appreciate it.

21 PANELIST NO. 109: Juror 109. I got no children.
22 I'm a manufacturing engineer. I have no military service. I
23 was on a jury service for a civil personal injury case. And I
24 have a bachelor of science in mechanical engineering.

25 THE COURT: Thank you very much.

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1 PANELIST NO. 108: Married. Retired facilities
2 maintenance. My wife is still a housewife working away. No
3 military service. And no prior jury duty.

4 THE COURT: Highest level of formal education?

5 PANELIST NO. 108: College.

6 PANELIST NO. 107: I'm juror No. 107. I'm unmarried.
7 No children. I'm a veterinary technician at a zoological
8 facility. No military service. No prior jury service. I
9 have an associate's of science and I'm halfway through a
10 bachelor's degree.

11 THE COURT: Thank you very much.

12 PANELIST NO. 105: I'm 105. I'm single. No
13 children. I work for a large financial firm as a conversion
14 consultant for financial advisors. I have no military
15 service. No prior jury service. And a couple years of
16 college but no degree.

17 THE COURT: Thank you very much.

18 PANELIST NO. 104: I'm Juror 104. I'm married. Two
19 stepchildren, 16 and 22. Currently retired. I was a
20 corporate communications executive. Previously, my wife is an
21 accounting manager. No prior military service for any of us
22 and no prior jury service. I have got a bachelor's in
23 business administration.

24 THE COURT: Thank you very much.

25 PANELIST NO. 103: I'm juror No. 103. I'm married.

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1 I have seven children, four step. I'm disabled. I was a
2 school bus driver. My spouse restores cars for a living. I
3 served on jury duty. I think it was civil. And I was the
4 13th juror to leave. And no military.

5 THE COURT: And your highest level of formal
6 education?

7 PANELIST NO. 103: Eleventh grade.

8 THE COURT: Thank you very much.

9 Could I see counsel briefly at sidebar.

10 (At sidebar on the record.)

11 THE COURT: Since we are recessing until tomorrow, I
12 wondered if there were any people that both sides agree could
13 be excused.

14 The only two that I have on my list were 104 and 121
15 that talked about how they have nephews that have done six
16 tours in the Middle East; and then 120 who talked about his
17 son's stories in Iraq.

18 I didn't pursue it further with either of them but
19 both of them were heading towards "they couldn't be fair."

20 Do you want to excuse 104 and 120?

21 MR. MAYNARD: I have no problem. We're not going to
22 get that far anyway.

23 MS. BROOK: We don't object to it either.

24 MR. KOEHLER: No objection.

25 MS. BROOK: No objection.

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1 THE COURT: I don't have anybody else.

2 (End of discussion at sidebar.)

3 THE COURT: So, ladies and gentlemen, we are going to
4 recess until nine o'clock tomorrow morning to complete jury
5 selection.

6 Jurors No. 104 and 120, I am going to excuse you.
7 You do not have to return tomorrow.

8 Now, there are some rules between now and tomorrow
9 morning and they are this:

10 You are not allowed to talk to anybody about this
11 case. If somebody says, "How come you're not coming to work
12 tomorrow?" or "Why do you have to go back downtown to court
13 tomorrow?" all you can tell them is:

14 I am being considered for jury selection in a trial
15 and I can't tell you anything else about the case.

16 So you can't tell them that it's a criminal case.
17 You can't tell them what the charges are. You can't tell them
18 who any of the people are.

19 For those of you that are ultimately selected as
20 trial jurors, there will be 16 of you. You won't be able to
21 talk about the case at all until the trial is over. For those
22 of you that are not of the 16 that serve as trial jurors, you
23 will be released from this prohibition on discussing the case
24 when you are excused.

25 But it is very important that you not discuss with

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1 anyone else, your family, your friends, the people you work
2 with, anything about this case, anything about the questions,
3 anything about the status of your selection as jurors, only
4 that you are still being considered as a trial juror in a
5 case.

6 Tomorrow -- I usually say take the same seats when
7 you come in tomorrow, but I think we're going to try to even
8 it up a little bit. Some people have a little elbow room and
9 others are still kind of crushed together. So I will just
10 have the -- the lawyers will just have to adapt and we will
11 fill out -- fill up these empty seats in the front.

12 Tomorrow I think what would be the easiest thing for
13 you to do, rather than coming up here one at a time, report
14 back in to the Jury Administration Office on the first floor
15 where you started out this morning where, you know, the chairs
16 are comfortable.

17 And we will come and get you and bring you back up
18 here at nine o'clock rather than have you try to filter in at
19 9:00.

20 And plus the lawyers or I might have a little
21 business to conduct before nine o'clock tomorrow morning. I'm
22 not sure yet. We'll find out after you all leave.

23 So any questions? Any concerns? A few questions? .

24 Okay. Juror No. 85?

25 PANELIST NO. 85: Regarding transportation, if we are

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1 excused, will it be before noon or afternoon? Do you have any
2 idea?

3 THE COURT: Before noon. I'm keeping my fingers
4 crossed. Keep your answers short and to the point and we'll
5 be out of here -- well, all of you that aren't chosen.

6 I'm going to try really hard to finish by noon or
7 shortly thereafter. Let's just say before the lunch break.

8 Was there another? Yes. This gentleman in the back?

9 A JUROR: I'm assuming we're supposed to retain our
10 numbers and bring them back tomorrow.

11 PANELIST NO. 25: Oh, yes. That is one thing we
12 can't change. We can't change your numbers. Hopefully, it
13 will still be sticky tomorrow. No. 25.

14 If you forget your number, if you forget to bring
15 your number, just remember what it was and we'll give you a
16 new one.

17 PANELIST NO. 27: When you say "numbers," you mean
18 the nine digit number?

19 THE COURT: No. The one that you're wearing. For
20 most of you it's two. For some of you it's three. But just
21 the one that you are wearing.

22 PANELIST NO. 100: I'm Juror 100. You said you
23 wanted us down in the room by eight o'clock tomorrow or by
24 nine o'clock?

25 THE COURT: Well, I want you all here ready to go by

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1 nine o'clock so you can be up here at 9:00.

2 So if I were you, I would get there no later than
3 8:45ish. But yeah, I'm not as -- I don't make you come just
4 as early as the Jury Administrator. But we're going to try to
5 start right at 9:00 so we can get hopefully through the rest
6 of the questioning earlier -- as early in the day as possible.

7 I can't promise noon, but we'll sure try to hit that
8 target. Yes?

9 PANELIST NO. 63: If one is selected to serve, would
10 the trial start tomorrow or would it be the next day or
11 something?

12 THE COURT: Well, if we finish as I hope by around
13 noon, yes, we will start tomorrow afternoon.

14 Yes?

15 PANELIST NO. 3: The documentation I provided my job
16 stated that I would know if I was selected today or not. So
17 will we be provided something stating we have to come back?

18 THE COURT: They will give you the documentation down
19 in the Jury Administrator's Office if you need another one of
20 those things for your job.

21 PANELIST NO. 135: I have a doctor's appointment
22 tomorrow I cannot miss.

23 THE COURT: That you cannot reschedule?

24 PANELIST NO. 135: No.

25 THE COURT: Is it important -- don't tell me about

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1 your personal health issue, but is it an important doctor's
2 appointment that you feel that you have to meet and can't
3 reschedule?

4 PANELIST NO. 135: Yes.

5 THE COURT: Is there any objection to excusing 135?

6 MR. KOEHLER: No, Your Honor.

7 MR. MAYNARD: No, Your Honor.

8 THE COURT: Then, No. 135, you don't have to come
9 back tomorrow.

10 MR. MAYNARD: You should have told us a lot earlier.

11 THE COURT: No. 25 again?

12 PANELIST NO. 25: Is parking the same?

13 THE COURT: Parking is the same tomorrow.

14 There was another hand over here? No. 52.

15 PANELIST NO. 52: How long do you particularly allow
16 for lunch?

17 THE COURT: Oh, well, once the jury is selected, we
18 usually have about an hour and 15 minutes for lunch each day.
19 And we take a break -- we didn't even get to the very specific
20 schedule.

21 It's 9:00 to 4:30 with about an hour, hour and 15
22 minutes for lunch, and then breaks in the middle of the
23 morning and breaks in the middle of the afternoon.

24 One more. No. 102?

25 PANELIST NO. 102: Will you come and get us tomorrow

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1 morning?

2 THE COURT: We'll come and get you or we'll have the
3 Jury Administrator escort you back up here.

4 Okay. I'm going to leave for a moment and then I'm
5 going to come back and talk -- unless it's something you need
6 to say in front of all the jurors, Mr. Maynard?

7 MR. MAYNARD: Can I have a sidebar? No.

8 Can the admonition include media and news?

9 THE COURT: Thank you very much for reminding me.

10 There have -- there were some news reports. I think
11 some of you even noted that you heard some things on the radio
12 maybe yesterday or today.

13 If you -- don't listen to any news reports or please
14 don't read -- if there's something in the paper tomorrow,
15 there have been some reporters here today. They were the
16 people that were in the back because there were no seats for
17 them anymore.

18 So do not read any news reports, listen to any news
19 reports, watch any news reports. So you might be watching the
20 nine o'clock or the ten o'clock news tonight and they may say
21 "Jury selection started."

22 Turn it off. Leave the room. Don't listen to any
23 news reports, read anything. Because from here on out,
24 everything you learn about this case has to be from the
25 evidence that's presented in this courtroom and nothing from

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1 the outside.

2 Have I answered all your questions? I'm sorry it's
3 been such a long day. We will try to get you out of here, as
4 I said, hopefully, by noon tomorrow, but there's not a
5 guarantee. We will see all of you then tomorrow morning at
6 9:00 a.m. I will recess and then we will come back and see if
7 there are any matters we need to finish up with.

8 Court is in recess.

9 (Recess taken at 4:51 p.m.; resumed at 4:58 p.m.)

10 (Open court, no jury present.)

11 THE COURT: Thank you. Please sit down. The record
12 will show the presence of counsel and the defendant.

13 I wanted to go over where we are on voir dire and
14 make sure I haven't missed anything that you thought I was
15 going to ask and I haven't.

16 And I forgot to ask about 69. I don't feel strongly
17 about juror 69. She is the one I was asking about peak season
18 for her work and she has a heavy caseload. But, you know, we
19 maybe can talk about her after we have all the jurors and
20 people that asked to be excused but don't have too big a
21 hardship so we can leave her, especially since she's coming
22 back tomorrow.

23 So in looking at the proposed voir dire, I think I have
24 covered all of the defendant's voir dire with the exception of
25 the last three questions. And I think that I have covered all

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1 of the government's voir dire as well with the exception of
2 the last three questions and the questions that are on, you
3 know, the two extra questions that are ongoing with respect to
4 the jurors that haven't answered the easel questions.

5 MS. BROOK: Your Honor, the only one that we eyeball
6 on our list would be No. 21 which would be:

7 Would you have any difficulty finding a person guilty
8 because of your own religious, moral, philosophical, or
9 personal beliefs?

10 THE COURT: Well, that one, I said with the exception
11 of the last three, but that one -- well, let's talk about that
12 for a moment.

13 Well, never mind. I'll just ask it.

14 I think 19 and 20 are already covered, so we will
15 make sure we do 21.

16 And with respect to the 21, 22, and 23 --

17 Well, 21 and 22 -- 22, I think, is kind of covered by
18 what we've already asked and is also a little bit subsumed
19 within 21.

20 MR. MAYNARD: It probably is.

21 THE COURT: So we have 21 -- two 21's and a 23.

22 With respect to just my general voir dire, after they
23 finish this, I don't have anything else. Then I will open it
24 up first to the government and then to the defense to ask any
25 followup questions.

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1 MR. MAYNARD: I guess I have two questions, Judge. I
2 mean, you did ask the questions about following this Court's
3 instructions on the law on reasonable doubt.

4 14, it just seems to me that this case is a little
5 bit different; our No. 14.

6 THE COURT: Well, the problem is is that it's without
7 context. Too heavy a burden? I mean, it's the burden.

8 Too heavy compared to what?

9 MR. MAYNARD: Too heavy compared to what you find in
10 a normal case.

11 THE COURT: Well, what normal case would that be? I
12 mean, the jurors, as you have heard -- first of all, there are
13 very few of them that have jury experience.

14 Those that do, it's almost all criminal experience,
15 so that's the normal case for proof beyond a reasonable doubt.
16 I mean, the idea of asking a question like this without
17 context would suggest that they know there are other standards
18 of proof which they don't.

19 I mean, I know lawyers try to explain it to them all
20 the time, but in this case I don't know that they would know
21 that there is -- that this is too heavy or not heavy enough or
22 there is something lighter.

23 That's the problem I have with it. That's why I
24 tried to explain what I explained in connection with
25 presumption of innocence and what that means.

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1 MR. MAYNARD: The other issue --

2 THE COURT: And I will be instructing them in the
3 preliminary instructions as to what "proof beyond a reasonable
4 doubt" means.

5 MR. MAYNARD: Okay. There were a number of the
6 questionnaires that indicated that the individuals may have
7 problems with alcohol because of religious beliefs. I'm not
8 sure I really want to get into that individually. I would
9 rather the Court deal with it.

10 THE COURT: Well, I don't want to deal with it at
11 all. I mean, you asked -- these are your questions.

12 MR. MAYNARD: Oh, sure.

13 THE COURT: They have answered them. And actually, I
14 thought to the extent that people wrote answers, if there's
15 any particular ones that you're concerned about, but a lot of
16 people wrote, you know, kind of thoughtful answers that wrote
17 anything at all.

18 I mean, most -- a lot of people just didn't say
19 anything.

20 MR. MAYNARD: Yeah. Most people didn't. But there
21 were probably a half dozen that indicated that for --

22 THE COURT: Well, maybe they're "for cause"
23 challenges or maybe they are people that you want to follow up
24 with. But I don't really know what more I would ask about it.

25 MR. MAYNARD: All right. Well, I'll think about what

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1 I'll follow up with.

2 THE COURT: Yes.

3 MR. MAYNARD: Okay.

4 THE COURT: Because they've answered the general
5 question about how they feel about alcohol and I thought there
6 were just a handful that were staunchly opposed to it.

7 MR. MAYNARD: There were.

8 THE COURT: I mean, a lot of people wrote a lot --
9 several people wrote about getting drunk is a bad thing or
10 perhaps even sinful.

11 Anything else that we need to talk about?

12 The preliminary instructions. I'm not going to
13 ask -- unless you know that they're fine right now and want to
14 tell me that.

15 Otherwise, please look at them over the break. And
16 if you have any concerns or corrections, first, talk to the
17 other side about it and then we'll see where we are. Because
18 that will be the first order of business after we swear in the
19 jury.

20 I will read the preliminary instructions. Maureen
21 will read the Indictment. And then we will have openings at
22 least tomorrow.

23 Mr. Koehler?

24 MR. KOEHLER: We will discuss our issues with the
25 preliminary instructions with the defense counsel as you

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1 requested.

2 THE COURT: Okay. Because if you agree on something
3 different, I'm happy to give whatever you agree on. But this
4 was just my attempt to give the basics of the elements of the
5 crimes that are charged.

6 MR. MAYNARD: Just some scheduling issues too; two
7 issues. One is I'm assuming we're going to get the jury
8 picked in the morning --

9 THE COURT: Me too.

10 MR. MAYNARD: -- is what it looks like.

11 THE COURT: I mean unless -- well, right now, I mean,
12 do either of you anticipate an extensive amount of voir dire?

13 MS. BROOK: No.

14 MR. MAYNARD: No, I don't.

15 So I guess the question I had was I have told the
16 government my opening would probably be about an hour. Theirs
17 would be an hour-and-a-half. I guess I'm just assuming that
18 we're both going to open tomorrow assuming that we have a jury
19 picked in the morning.

20 THE COURT: I sure hope so.

21 MR. MAYNARD: Okay.

22 The second thing is the government did give me -- I
23 guess this is the final report -- after we met this morning.

24 THE COURT: Mr. Kohlmann?

25 MR. MAYNARD: Mr. Kohlmann.

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1 I have now sent this off to -- I e-mailed it to my
2 experts back in DC to look at. But I'm told --

3 THE COURT: Is it different than the other one?

4 MR. MAYNARD: It's 31 pages. I don't know. I
5 haven't had a chance to read it. I have been here all day.

6 THE COURT: Well, I was looking at it when I had
7 little down time this morning and it looked like there was a
8 lot of stuff that's probably identical to what's been in a
9 bunch of his other reports. And then at the very end of each
10 section or at the very end of most sections there was
11 something that tried to relate it to evidence in this case.

12 Is that what this one looks like too?

13 MR. MAYNARD: I haven't read it. Never looked at it.

14 THE COURT: So is it any different?

15 MS. BROOK: Your Honor, it adds some analysis at the
16 end related to Simpson and Soofi's computers and their
17 technology. So it adds some additional information.

18 THE COURT: But it doesn't delete anything?

19 MS. BROOK: Correct.

20 THE COURT: Okay.

21 MR. MAYNARD: My issue is this: Is that we're going
22 to --

23 THE COURT: Well, my issue is: Let's just settle
24 this right now. There's no way Mr. Kohlmann is testifying on
25 Thursday. Is that the plan?

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1 MS. BROOK: That was the plan.

2 THE COURT: It's not going to happen. It's just not
3 going to happen. You can't provide this report a week ago
4 Monday for the very first time and the final report today and
5 expect that we can have him testify on Thursday.

6 And if that puts you on the horns of a dilemma,
7 you'll just have to figure your way off, because he cannot
8 testify on Thursday. He's got to be scheduled for at least
9 next week at the soonest, maybe the week after.

10 In addition to which, just looking at Mr. Maynard's
11 motion and looking at the report -- and I'm using the word
12 "looking" because it was obviously a quick read -- I think
13 before I could say for sure even if I -- if Mr. Kohlmann was
14 to testify, before I could say what the scope of his testimony
15 was to be, I would have to have a little bit more sense of
16 what the evidence was going to be that was actually going to
17 be admitted in the case and I sure won't know that on
18 Thursday.

19 And his testimony presumes the admission of a whole
20 lot of information. I'll just give you one example.

21 He's talking about -- at his ending paragraphs he's
22 talking about the search of the Acer computer.

23 Well, the only computer that I know of from our prior
24 evidence that is clearly relevant in this case is the Lenovo
25 computer. And so before Mr. Kohlmann could ever talk about

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1 anything on an Acer computer, we would have to have evidence
2 as to how in the world anything on an Acer computer was
3 something that Mr. Kareem can be charged with knowledge of.

4 And I don't have that information and I'm going to
5 get it not by some proffer but by the evidence in the case.

6 But that's just a simple example. I mean, when he's
7 talking about the Lenovo and the flash drive, at least I know
8 what the issues are and I have ruled on the issues with
9 respect to the Lenovo and the flash drive.

10 But the Acer, I don't know how that comes back to
11 Mr. Kareem. And only the witness is going to be able to try
12 to explain that to me. And if it's not explained, how in the
13 world could I let Kohlmann testify about it?

14 So I think we have some breathing room now on
15 Kohlmann because my understanding is he's not available next
16 week.

17 MS. BROOK: That's correct.

18 THE COURT: And so we're looking at at least two
19 weeks away.

20 MR. MAYNARD: That's fine.

21 THE COURT: So we have plenty of time to worry about
22 him. Is there anything else?

23 MR. MAYNARD: One last. Can we take the
24 questionnaires with us? I mean, routinely we're not entitled
25 to, but it certainly would move things along a little bit if

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1 we could. We don't have names on them. We just have numbers.

2 THE COURT: Do you promise you will --

3 Okay. So all the people that we have excused, leave
4 theirs. I don't know if you have pulled them out but you have
5 to solemnly promise that you will not make copies of them.

6 MR. MAYNARD: Okay.

7 THE COURT: And that you will bring back the one and
8 only copy you have tomorrow because we will be keeping them.

9 And I don't know if the government wants to do the
10 same thing.

11 MS. BROOK: No.

12 THE COURT: Okay. So no solemn promises from you.
13 You're leaving your questionnaires here?

14 MR. KOEHLER: Correct, Your Honor.

15 MR. MAYNARD: Now I lay me down to sleep.

16 Yes, I solemnly promise.

17 THE COURT: Okay. Anything else, Mr. Koehler or Ms.
18 Brook?

19 MR. KOEHLER: No, Your Honor. Thank you.

20 THE COURT: Okay. See you tomorrow morning at 9:00.

21 (Proceedings adjourned at 5:12 p.m.)

22 * * *

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C E R T I F I C A T E

I, ELIZABETH A. LEMKE, do hereby certify that I am
duly appointed and qualified to act as Official Court Reporter
for the United States District Court for the District of
Arizona.

I FURTHER CERTIFY that the foregoing pages constitute
a full, true, and accurate transcript of all of that portion
of the proceedings contained herein, had in the above-entitled
cause on the date specified therein, and that said transcript
was prepared under my direction and control.

DATED at Phoenix, Arizona, this 1st day of August,
2016.

s/Elizabeth A. Lemke
ELIZABETH A. LEMKE, RDR, CRR, CPE